

REGIONAL DISTRICT OF NANAIMO
ELECTORAL AREA PLANNING COMMITTEE
TUESDAY, FEBRUARY 26, 2002
6:00 PM

(Nanaimo City Council Chambers)

A G E N D A

PAGES

CALL TO ORDER

DELEGATIONS

MINUTES

- 3-5 Minutes of the Electoral Area Planning Committee meeting held Tuesday, January 22, 2002.

CORRESPONDENCE/COMMUNICATIONS

- 6 Oceanside Development & Construction Association, re Proposed Amendment Bylaw 500.268.

BUSINESS ARISING FROM THE MINUTES

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

- 7-12 DP Application No. 0126 - Parksville Funeral Chapel Ltd./Stanhope - 1000 Allsbrook Road - Area F.
- 13-19 DP Application No. 0205 - Rennie - Admiral Tryon Boulevard - Area G.
- 20-28 DP Application No. 0206 - Nanoose Hill Station/Fern Road Consulting - 1660/1666 East Island Highway & 1642 East Island Highway - Area E.

DEVELOPMENT VARIANCE PERMIT

- 29-40 DVP Application No. 0204 - Karasiuk - 3741 Mallard Place - Area E.
- 41-47 DVP Application No. 0205 - Sjostrom Industries & Donner Lake Contracting - Nanaimo River Road - Area C.
- 48-51 DVP Application No. 0206 - Dickens/Sims - 3605 Collingwood Drive - Area E.
- 52-58 DVP Application No. 0207 - Bailey - Redden Road - Area E.

59-65 DVP Application No. 0208 - Zavislak/Sims - 6297 West Island Highway -
Area H.

OTHER

ADDENDUM

BUSINESS ARISING FROM DELEGATIONS OR COMMUNICATIONS

NEW BUSINESS

IN CAMERA

ADJOURNMENT

REGIONAL DISTRICT OF NANAIMO

**MINUTES OF THE ELECTORAL AREA PLANNING COMMITTEE
MEETING HELD ON TUESDAY, JANUARY 22, 2002, AT 6:00 PM
IN THE CITY OF NANAIMO COUNCIL CHAMBERS,
455 WALLACE STREET, NANAIMO, BC**

Present:

Director E. Hamilton	Chairperson
Director L. Elliott	Electoral Area A
Director D. Haime	Electoral Area D
Director G. Holme	Electoral Area E
Director J. McLean	Electoral Area F
Director J. Stanhope	Electoral Area G
Director R. Quittenton	Electoral Area H
Director D. Rispin	City of Nanaimo

Also in Attendance:

C. Mason	General Manager of Corporate Services
B. Lapham	General Manager of Development Services
P. Shaw	Manager of Community Planning
N. Tonn	Recording Secretary

ELECTION OF DEPUTY CHAIRPERSON

The Chairperson called for nominations for the position of Deputy Chairperson for the year 2002.

Director Holme nominated Director Haime.

There being no further nominations, the Chairperson declared Director Haime Deputy Chairperson for the year 2002.

DELEGATIONS

Lila & John Mandziuk, re DVP Application No. 0202 – Shetland Place – Area E.

Mr. Mandziuk presented an overview of his application, noting the difficulty in hooking up to sewer lines. He also noted that changes have been made to the original application in an effort to satisfy neighbouring residents' concerns.

Director Quittenton joined the meeting.

LATE DELEGATIONS

MOVED Director Holme, SECONDED Director Stanhope, that the following delegations be permitted to address the Committee.

CARRIED

Jon Allsop, re DVP Application No. 0202 – Mandziuk – Shetland Place – Area E.

Mr. Allsop raised his concerns with respect to a possible constriction of view and infringement on neighbours' privacy if development variance permit application 0202 is approved by the Board. The possibility of setting a precedent with an approval is also a major concern of residents.

Dexter Lindberg, re DVP Application No. 0202 – Mandziuk – Shetland Place – Area E.

Mr. Lindberg noted that the majority of homes in the area are single level bungalows. The construction of a multi-level home will encroach on the privacy of these existing dwellings.

Douglas Myers, re DVP Application No. 0202 – Mandziuk – Shetland Place – Area E.

Mr. Myers noted that architectural guidelines within the Fairwinds development clearly warn new owners to investigate sewer requirements before construction. Mr. Myers also reiterated the concerns of other residents with respect to setting a precedent with approval of this application.

PLANNING

DEVELOPMENT PERMIT APPLICATIONS

Application No. 0201 – Sort – 1105 Surfside Drive – Area G.

MOVED Director Stanhope, SECONDED Director Haime, that Development Permit Application No. 0201, as submitted by Sigmund Bering Sort and Barbara Day Sort, to facilitate the construction of a single dwelling unit within the Environmentally Sensitive and Hazard Land Development Permit Areas and to vary the maximum dwelling unit height within the Residential 2 (RS2) zone from 8.0 metres to 9.5 metres for the property legally described as Lot A, District Lot 9, Newcastle District, Plan VIP54706, be approved subject to the conditions outlined in Schedule No. 1 and subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Application No. 0202 – Green – 1390 Madrona Drive – Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Permit Application No. 0202 to permit the removal of an existing retaining wall and to replace it with a new shoreline protection device on the property legally described as Lot 13, District Lot 68, Nanoose District, Plan 26680 be approved, subject to the conditions outlined in Schedule No. 1 of the corresponding staff report.

CARRIED

Application No. 0203 – Klassen/Sims Associates – Crocus Corner – Area G.

MOVED Director Stanhope, SECONDED Director Haime, that Development Permit No. 0203, submitted by Helen Sims, Agent, on behalf of Mike Klassen and Lene Klassen to permit the construction of a dwelling unit, fence and patio within a Watercourse Protection Development Permit Area pursuant to the "French Creek Official Community Plan Bylaw No. 1115, 1998", to vary the minimum setback requirement for a watercourse from 15 metres to 11 metres pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987", and to amend a section 219 (restrictive) covenant on the property legally described as Lot 5, District Lot 29, Nanoose District, Plan 45632 be approved, subject to the conditions as outlined in Schedule No. 1 and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

DEVELOPMENT VARIANCE PERMIT

Application No. 0201- Mills - 2705 Shady Mile Way - Area D.

MOVED Director Haime, SECONDED Director Stanhope, that Development Variance Permit Application No. 0201, submitted by Blair Dueck, agent on behalf of Larry Mills and Marie Mills, to facilitate the development of a single dwelling unit and vary the maximum permitted dwelling unit height for the "turret" portion only within the Rural 1 (RU1) zone from 9.0 metres (29.5 feet) to 11.3 metres (37.1 feet) for the property legally described as Lot 8, Section 15, Range 4, Mountain District, Plan VIP68509, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.

CARRIED

Application No. 0202 - Mandziuk - Shetland Place - Area E.

MOVED Director Holme, SECONDED Director Stanhope, that Development Variance Permit No. 0202, submitted by John Mandziuk and Lila Mandziuk, to facilitate the construction of a dwelling unit within the Residential 1 (RS1) zone by varying the maximum height of the dwelling unit from 8.0 metres to 10.4 metres for the property legally described as Strata Lot 30, District Lot 78, Nanoose District, Plan VIS3393 Together With an Interest in the Common Property in Proportion to the Unit Entitlement of the Strata Lot as Shown on Form 1, be approved as submitted subject to site inspection of the applicant's property and neighbouring properties and the notification requirements pursuant to the *Local Government Act*.

CARRIED

Application No. 0203 - Ronkainen/Earthy - 3452 Jingle Pot Road - Area D.

MOVED Director Haime, SECONDED Director Stanhope, that Development Variance Permit Application No. 0203 submitted by William Earthy, agent on behalf of Derek Ronkainen, for the property legally described as a Portion of the Easterly 60 Acres of Section 16, Range 3, Mountain District Except That Part in Plan 29404, VIP68415, VIP68636 and VIP72060 to vary the minimum setback requirements of the Rural 1 (RU1) zone from 8.0 metres to 1.0 metre as shown on Schedule No. 1 be approved, subject to the conditions outlined in Schedule No. 2, and subject to notification requirements pursuant to the *Local Government Act*.

CARRIED

ADJOURNMENT

MOVED Director Stanhope, SECONDED Director Holme, that this meeting terminate.

CARRIED

TIME: 6:25 PM

CHAIRPERSON

Attachment No. 1



Oceanside Development & Construction Association
 P.O. Box 618, Parksville, BC V9P 2G7
 E-mail: odca@telus.net

REGIONAL DISTRICT OF NANAIMO	
FEB - 4 2002	
CHAIR	GMC'S
CAO	GMDS
GMC'S	GMS
[Redacted]	

January 31, 2002

Board of Directors
 Regional District of Nanaimo
 P.O. Box 40
 6300 Hammond Bay Road
 Nanaimo, BC V9T 6N2

Dear Regional Board of Directors,

**RE: Proposed Amendment Bylaw No. 500,268, 2000
 Amendments to Subdivision Districts, Nanoose Bay O.C.P.
 Coast Residential Neighbourhoods change to 10,000 sq. M.**

EA Correspondence - ✓

Further to our attached letter of August 29, 2001, subsequent to our letter of March 29, 2001, we brought to your attention questions that require clarification. Almost 5 months have passed without a response from the Board.

Our concerns, at the very least, deserve a response, as we are unaware of the current status of the bylaw. What is the intent and ramifications? What does "held in abeyance indefinitely" mean? Does staff intend to make amendments to the bylaw and will the RDN provide notification to the public and the ODCA to revisit the bylaw?

As this bylaw is of public interest and concern, your immediate response would be appreciated.

Yours truly,

[Handwritten signatures of Egon Kuhn, Helen Sims, Rob Hill, and Michelle Jones]

Egon Kuhn
 President

Helen Sims
 Vice President

Rob Hill
 Secretary

Michelle Jones
 Treasurer

c.c. Mr. George Hoime, Area E Director
 Mr. Joe Stanhope, Area G Director
 Mrs. D. Haime, Area D Director
 Mr. Kelly Daniels, Chief Administrative Officer

Encl:

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16



FEB 15 2002

CHAIR		GMCrS	
CAO		GMDS	
GMCmS		GMES	
E.A. Planning			✓

MEMORANDUM

TO: Pam Shaw
Manager, Community Planning

DATE: February 15, 2002

FROM: Brigid Reynolds
Planner

FILE: 3060 30 0126

SUBJECT: Development Permit Application No. 0126 - Parksville Funeral Chapel Ltd/ Stanhope Electoral Area 'F' - 1000 Allsbrook Road

PURPOSE

To consider an application for a development permit to allow the enlargement of an existing irrigation pond within the Watercourse Protection Development Permit Area.

BACKGROUND

The subject property legally described as Remainder Lot 3, District Lot 43, Nanoose District, Plan 2761, Except the Southerly 20 Chains thereof and Plans VIP52723 and VIP65740 is located on Allsbrook Road in Electoral Area 'F'. The property is designated as Commercial/ Industrial Mixed Use in the Bellevue Church Road Rural Separation Area pursuant to the "Regional District of Nanaimo Electoral Area 'F' Official Community Plan Bylaw No. 1152, 1999 and is within the Watercourse Protection Development Permit Area as Shelley Creek crosses the property (see Attachment 1).

The property has been developed as a funeral chapel and cemetery. At this time, there is no zoning on this parcel.

The Watercourse Protection Development Permit Area was established to protect the natural environment and is measured 15 metres from the natural boundary and where there is a bank within 15 metres of the natural boundary, 15 metres from the top of the bank. In May 2001, the Parksville Funeral Chapel enlarged an irrigation pond on their parcel (see Schedule No. 1 for pond site plan). The works were being undertaken within the 15-metre Development Permit Area adjacent to Shelley Creek. This creek is a fish bearing stream that flows through Electoral Area 'F' and the City of Parksville and is part of the Englishman River watershed.

These works were undertaken without prior knowledge or approval of the Regional District, Federal Fisheries and Oceans (DFO), or the Ministry of Water, Land, and Air Protection (MLWAP). Upon a site inspection, staff from DFO requested that emergency mitigation work be undertaken due to the potential for a violation under Section 35 of the Fisheries Act. These works included: pulling back the earthen berm away from the creek; covering the exposed soils on the berm to prevent sediment from entering the creek; recontouring the berm to prevent run off and sediment from entering the creek; and augmenting the soil on the berm and hydroseeding the disturbed area. Prior to the pond enlargement taking place, the overflow from the pond was directed into Shelley Creek. DFO staff required that this practice be discontinued.

As part of the application, geotechnical and hydrogeological assessments were undertaken by Conestoga Rover and Associates and were submitted to the RDN. These assessments were required to determine the strength and stability of the slope between the pond and the creek and to determine if the pond would impact the base flow of Shelley Creek.

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In December 2001, RDN, DFO and MWLAP staff were contacted by the applicant because the irrigation pond was reaching capacity and there was nothing preventing the overflow from breaching the pond and flooding the cemetery property. At that time, DFO staff requested that water quality testing be undertaken prior to any overflow from the pond being directed into Shelley Creek. The results of the water quality testing found that the level of pollutants in the water was acceptable and DFO permitted the overflow to enter into Shelley Creek by natural seepage. A more permanent method to direct the overflow from the pond to the creek will still have to be achieved.

ALTERNATIVES

1. To approve the requested development permit subject to the conditions outlined in Schedule No. 2 of the staff report.
2. To deny the requested development permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the requested development permit would legalize the enlargement of an irrigation pond in a Watercourse Protection Development Permit Area.

The existing irrigation pond was enlarged to improve the summer watering needs of Parksville Funeral Chapel. The pond enlargement did not receive prior approvals from DFO, MWLAP and the RDN. However, the applicant has been working with the agencies to ensure their requirements are being addressed.

ENVIRONMENTAL IMPLICATIONS

The pond enlargement work was undertaken within the 15-metre Watercourse Protection Development Permit Area. As a result of these works, some of the riparian vegetation was removed or buried and there was a high potential for the works to cause sediment and silt to be introduced into Shelley Creek. Emergency mitigation works were required by DFO and were undertaken to include recontouring the slope away from the creek to prevent run off and sediment from entering the creek, augmenting the soils, and hydroseeding the excavated area to reduce erosional impacts.

In addition to these emergency mitigation works, more extensive landscaping of the disturbed riparian area using native trees and shrubs is recommended in Schedule No. 2. The proposed planting will be undertaken over the spring season. This landscaping will provide greater stability to the slope between the pond and the creek and will further reduce the potential for sediment to enter the creek.

The geotechnical assessment examined the stability of the area where the newly excavated irrigation pond and Shelley Creek is most narrow (*see 'the plug' as shown on Schedule No. 1*). This assessment determined that the strength of this area was stable. However, the assessment did not consider the potential for surficial sloughing failures on the pond side of the excavation. Any sloughing of the slope into the pond will result in sediment entering the pond area. Should this occur in the winter when overflow from the pond is directed into the creek, mitigation must be undertaken to prevent this sediment from entering the pond.

The hydrogeological assessment was intended to determine if the operation of the expanded pond would impact the base flow in Shelley Creek. The assessment determined that the location of the pond would have no significant impact on the base flow of Shelley Creek.

The enlarged pond does not have any formal method by which to manage the overflow from the pond. In the past, an overflow pipe connected the pond and the creek; however, DFO staff has now required that the pipe be removed. Winter rains and a pond comprised of an impermeable clay layer resulted in the pond reaching capacity and overflow threatening the cemetery property. After water quality testing was undertaken and the results indicated that pollutant levels were acceptable, DFO staff agreed that permitting natural seepage into the creek would be acceptable for this season. However, a more permanent structural solution is required to be undertaken before next winter. Any solution must be undertaken in consultation with DFO and RDN staff. In addition, water quality testing undertaken in the low flow summer months when pollutants tend to be concentrated is required to ensure that water entering the stream meets a standard acceptable to DFO.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

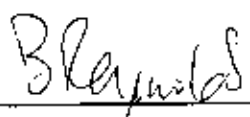
SUMMARY/CONCLUSIONS

This is an application to allow the enlargement of an existing irrigation pond in the Watercourse Protection Development Permit Area. The pond was enlarged to improve summer irrigation needs. Emergency mitigation works have been undertaken to reduce the potential for silt and sediment from entering the stream and landscaping of the disturbed Development Permit Area will provide further stability of the riparian area. In addition, a structural method, developed in consultation with DFO and RDN staff, is necessary to allow water to flow from the pond to Shelley Creek during the winter/spring season.

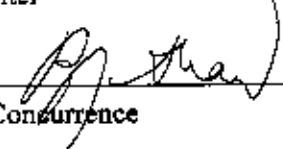
From staff's assessment of this application Development Permit No. 0126 should be approved as the environmental impact of the pond enlargement has been protected through emergency mitigation works, as well landscaping to be undertaken in the spring will further reduce any negative impacts to Shelley Creek. The applicant is in concurrence with the conditions outlined in Schedule No. 2.

RECOMMENDATION

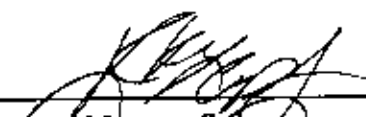
That Development Permit Application No. 0126, to allow the enlargement of an existing irrigation pond in the Watercourse Protection Development Permit Area on the property legally described as Remainder Lot 3, District Lot 43, Nanoose District, Plan 2761, Except the Southerly 20 Chains thereof and Plans VIP52723 and VIP65740 be approved subject to conditions outlined in Schedule Nos. 1 and 2.



Report Writer



Manager Concurrence



General Manager Concurrence

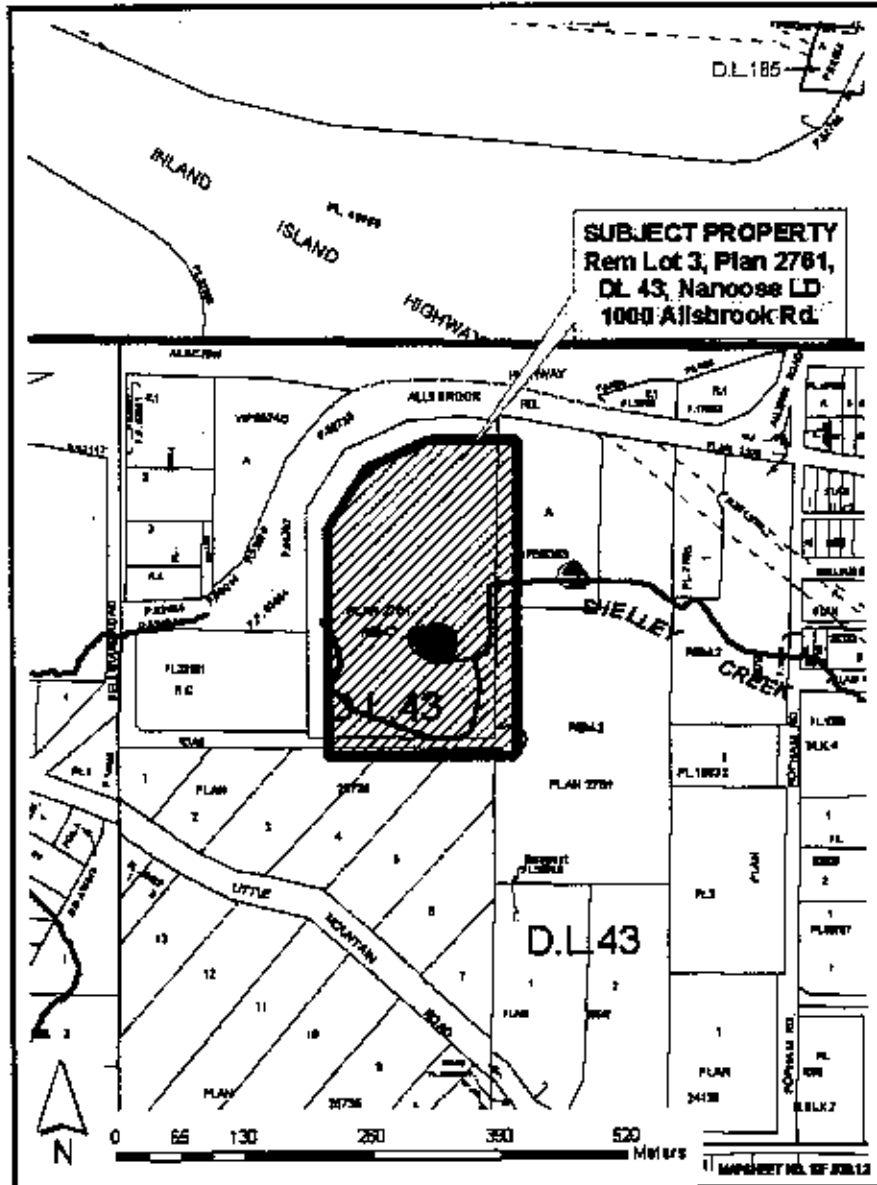


CAO Concurrence

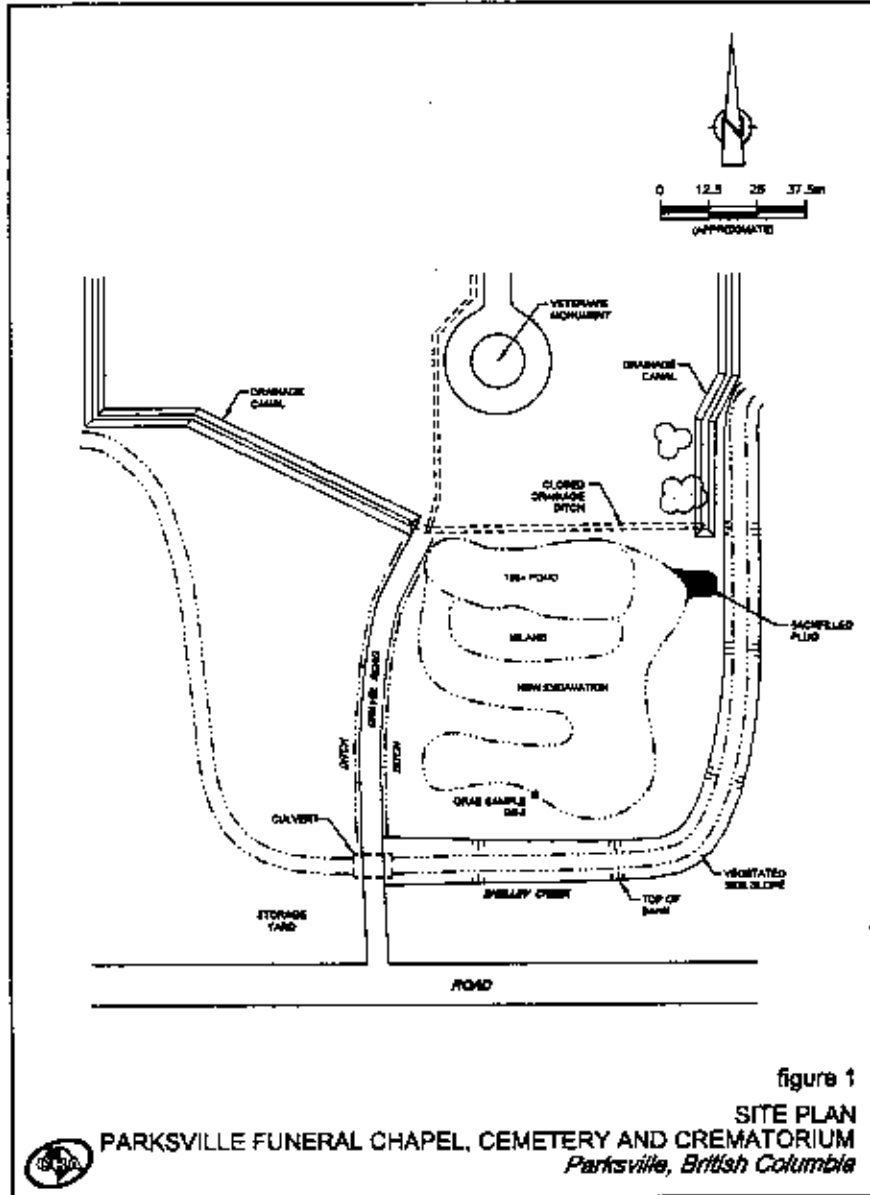
COMMENTS:

Devsvs/reports/2002/dp fe 3060 30 0126 Parksville Funeral Chapel

Attachment No. 1
Subject Property
Development Permit No. 0126
1000 Allsbrook Road



Schedule No. 1
Site Plan
Development Permit No. 0126
1000 Ailsbrook Road



18990-000011GN-WA002 NOV 21/2001

Schedule No. 2
Conditions of Approval
Development Permit No. 0126
1000 Allsbrook Road

1. Water Quality Testing

Water quality testing be undertaken in the summer of 2002 in the same locations as was done in December 2001.

2. Landscaping

- a. Replant vegetation within the disturbed area of the Development Permit Area.
- b. Preferred plantings to include but not limited to Western Willow, Red Osier Dogwood, Cedar, Alder and Thimbleberry. All replantings to maintain and enhance the natural characteristics of the riparian area.
- c. Replanting to be undertaken in Spring and Fall 2001 and be maintained to ensure their long term health.

3. Overflow

A permanent method by which overflow from the pond enters the creek must be developed and must be developed in consultation with DFO. This method must consider how the least amount of sediment can enter Shelley Creek.



REGIONAL DISTRICT OF NANAIMO		
FEB 18 2002		
CHAIR	GMCrS	
CAO	GMDS	
GMCmS	GMES	
<i>EA Planning</i>		

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE:

February 15, 2002

FROM: Lindsay Chase
Planner

FILE:

3060 30 0205

SUBJECT: Development Permit No. 0205 - Rennie
Lot 16, District Lot 28, Nanoose District, Plan VIP62528
Electoral Area 'G' - Admiral Tryon Boulevard

PURPOSE

To consider an application for a Development Permit to facilitate the construction of a retaining wall and dwelling unit within the Sensitive Lands and Watercourse Protection Development Permit Areas pursuant to the French Creek Official Community Plan.

BACKGROUND

This is an application to permit the siting of a single dwelling unit within the Sensitive Lands and Watercourse Protection Development Permit Areas in the Columbia Beach area of Electoral Area 'G' (*see Attachment No. 1*).

The property is situated within a Sensitive Lands Development Permit Area and a Watercourse Protection Development Permit Area designated for the foreshore and French Creek pursuant to Regional District of Nanaimo French Creek Official Community Plan Bylaw No. 1115, 1998. The minimum setback for the Watercourse Protection DPA is 30.0 metres from the natural boundary of French Creek and the applicant is requesting a variance of 22.0 metres to permit the construction of a retaining wall and a variance of 14.8 metres to permit the construction of a dwelling unit (*see Attachment No. 2 for a site plan*).

The subject property is zoned Residential 5 (RS5) pursuant to Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987. The minimum setback requirements for buildings and structures in this zone are 8.0 metres from the natural boundary of the sea, 8.0 metres from the front lot line and 3.0 metres from an interior side lot line. This parcel is also subject to the provisions of Development Permit No. 77, which relaxed the interior side lot line setbacks on the interior side lot line from 3.0 metres to 2.0 metres for the single family lots in this subdivision. Development Permit No. 77 also varied the maximum dwelling unit height to 9.5 metres above the natural grade, which takes into account the flood elevation requirements of Bylaw No. 843 (The RDN's Floodplain Bylaw). As the interior side lot line setback and the maximum permitted dwelling unit height have already been varied, the applicant does not require any additional variances to Bylaw No. 500 standards as part of this application.

There is a covenant on title delineating a setback for buildings measured 15.0 metres from the present natural boundary for flood protection purposes. In addition, the covenant states no removal of vegetation is permitted within 7.5 metres from the present natural boundary for environmental protection purposes. No amendment of the covenant is required with respect to this application.

ALTERNATIVES

1. To approve the Development Permit subject to the conditions outlined in Schedule No. 1
2. To deny the Development Permit.

LAND USE AND DEVELOPMENT IMPLICATIONS

Approval of the Development Permit would permit the construction of a retaining wall and dwelling unit on the property. Reducing the Watercourse Protection Development Permit Area setback to 8.01 metres for the retaining wall and 15.2 metres for the dwelling unit is in keeping with the retaining wall and location of the dwelling unit on the adjacent developed parcel. As this is one of the few remaining lots to be developed in this neighbourhood, consideration of the end result of the construction on neighbouring properties is important; the variance would allow the property to be developed in a manner similar to adjacent properties to minimize negative impacts on view corridors. Development Permit No. 77 has already varied the interior side lot line setback and the maximum permitted dwelling unit height, therefore no additional variances are required.

ENVIRONMENTAL IMPLICATIONS

The parcel is situated in the French Creek floodplain and is bordered by French Creek. The Ministry of Water, Land and Air Protection (MWLP) hold a covenant that does not permit the removal of vegetation within 7.5 metres of the present natural boundary. The applicant is proposing to build a retaining wall 8.01 metres from the natural boundary. The wall is proposed to be less than 1.0 metre in height, and therefore is not considered a structure pursuant to Bylaw No. 500. The MWLP requires that retaining walls be engineered, and the applicant has provided Engineered drawings of the proposed retaining wall (*see Attachment No. 3*).

This parcel is uniquely located adjacent to the estuary area of French Creek. As a result, protecting this environment from the introduction of sediment caused by erosion is necessary. Schedule No. 1 outlines methods that should be undertaken as part of this development.

PUBLIC CONSULTATION IMPLICATIONS

This is one of the remaining lots to be developed on Admiral Tryon Boulevard. Property owners in the area have constructed retaining walls in addition to dwelling units. This application does include a request to vary the Watercourse Protection Development Permit Area setback; however there are no requests to vary Bylaw No. 500 standards, therefore notification of adjacent properties is not required pursuant to the *Local Government Act*.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS


This is an application to permit the construction of a single dwelling unit and a retaining wall within the Sensitive Lands and Watercourse Protection Development Permit Areas. The applicant has requested that the Watercourse Protection setback be varied from 30.0 metres to 8.01 metres to permit the

construction of an engineered retaining wall, and that the Watercourse Protection setback be varied from 30.0 metres to 15.2 metres to permit the construction of a single dwelling unit.

This lot is one of the remaining lots to be developed on the foreshore side of Admiral Tryon Boulevard. Many adjacent property owners have constructed retaining walls in addition to dwelling units, and the proposed development is in keeping with adjacent properties.

RECOMMENDATION

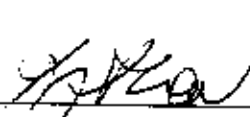
That Development Permit Application No. 0205 to vary the Watercourse Protection Development Permit Area setback from the natural boundary pursuant to the French Creek Official Community Plan Bylaw No. 1115, 1998 from 30.0 metres to 8.01 metres to permit the construction of a retaining wall, and to vary the DPA setback from 30.0 metres to 15.2 metres to permit the siting of a dwelling unit for the property legally described as Lot 16, District Lot 28, Nanoose District, plan VIP62528 be approved subject to the conditions outlined in Schedule '1'.



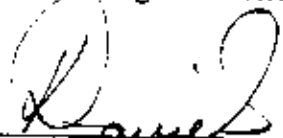
Report Writer



General Manager Concurrence



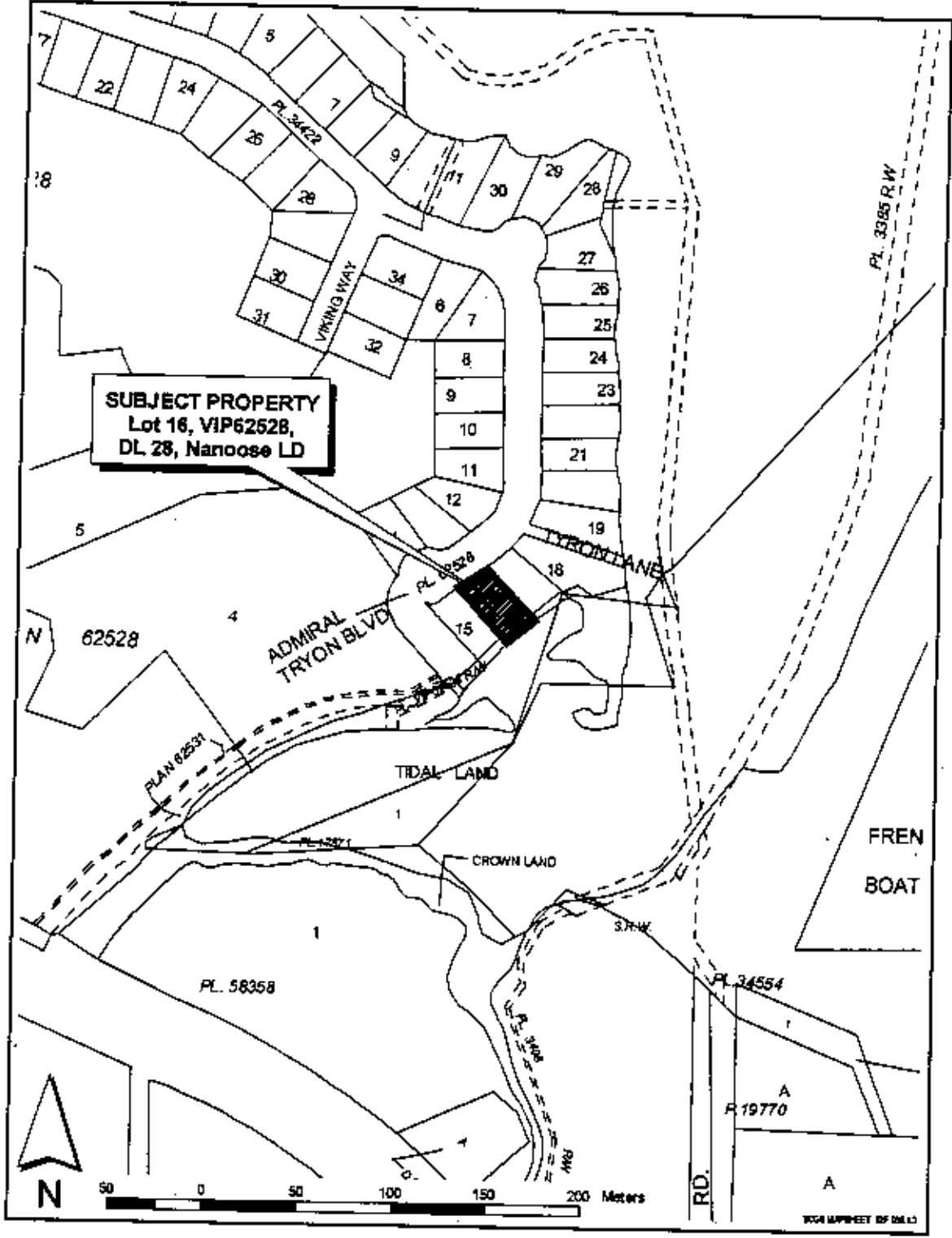
Manager Concurrence



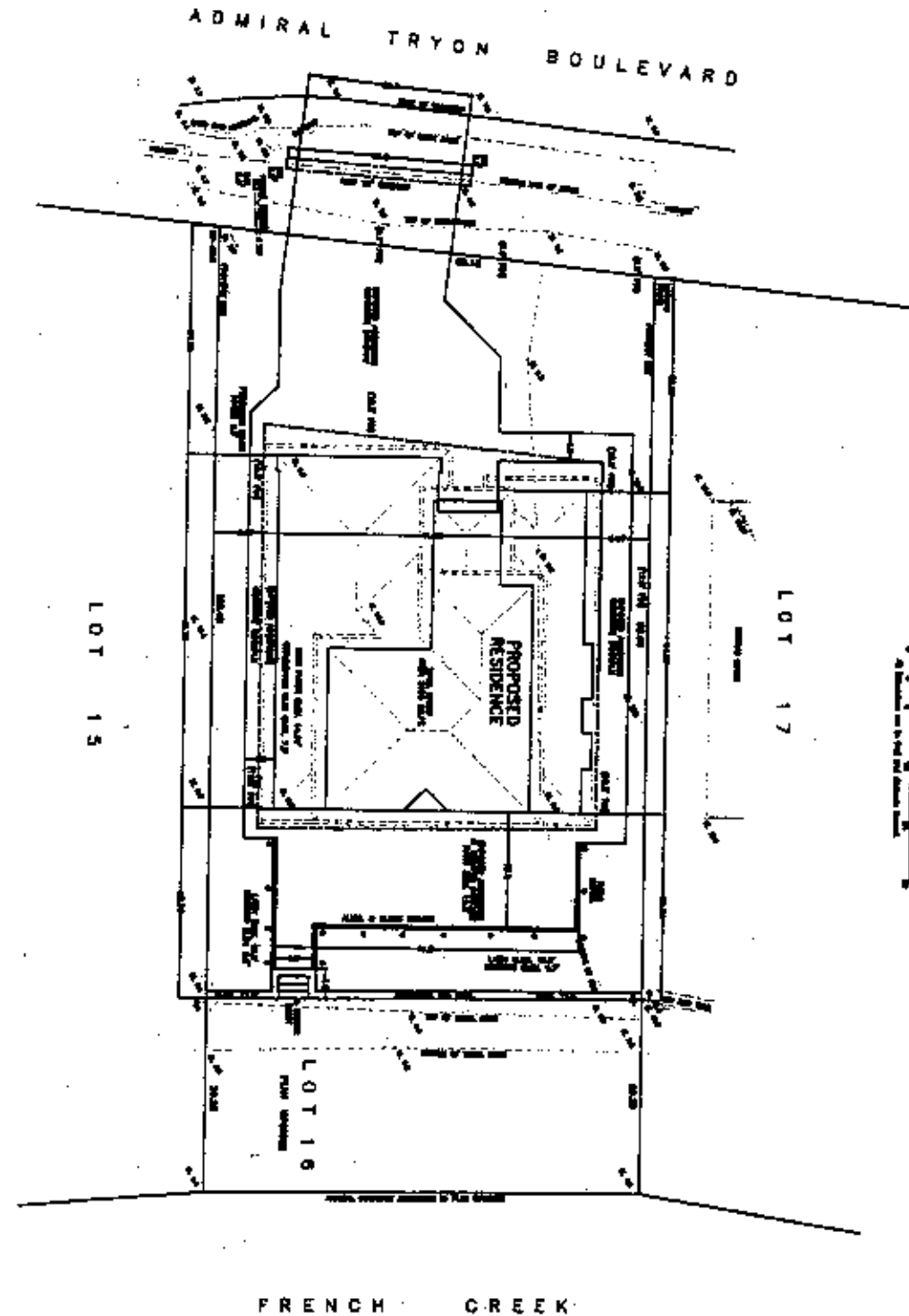
CAO Concurrence

COMMENTS:
devs/reports/2002/dp fe 3060 30 0205 Rennie.doc

Attachment 1 Subject Property Location

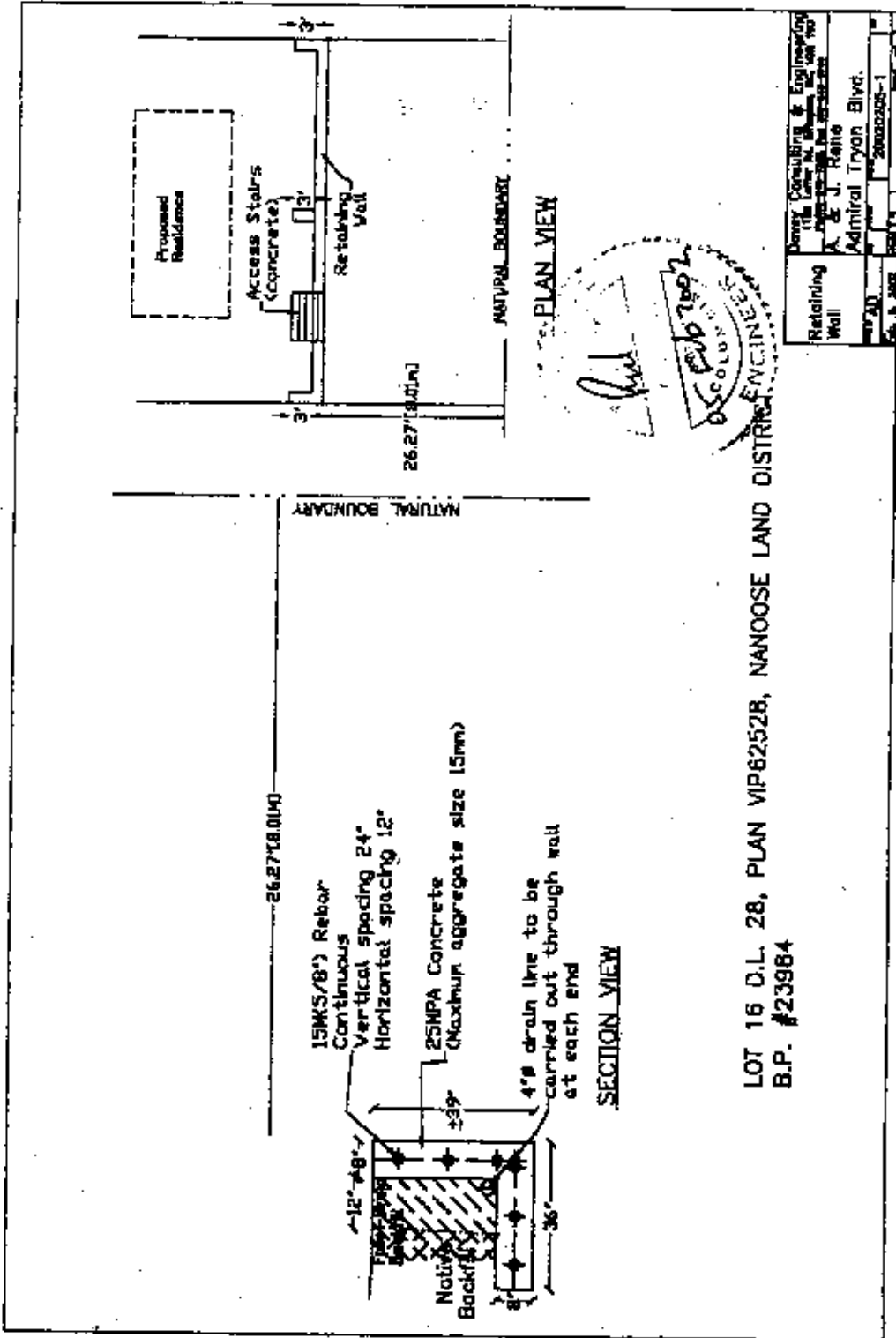


Attachment No. 2
Site Plan as Submitted by Applicant



PLAN OF TOPOGRAPHIC SURVEY OF
LOT 18, DISTRICT LOT 2A, NANOOSE DISTRICT,
PLAN YR82528 P/D 023-287-501

Attachment 3
 Engineered Drawings of Retaining Wall Submitted by Applicant



**Schedule No. 1
Conditions of Approval
Development Permit No. 0205**

Location

1. The shoreline protection device and dwelling unit are to be located as shown on Attachment No. 2.

Sediment and Erosion Control Measures

2. Sediment and erosion control measures must be utilized to control sediment during wall removal and replacement works and land clearing works and to stabilize the site after construction is complete. These measures must include:
 - a. Tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
 - b. Direct run off flows away from the marine environment using swales or low berms.
 - c. Exposed soils must be seeded immediately after disturbance.
 - d. Cover temporary fills or soil stock piled with polyethylene or tarps.
3. Replant vegetation within disturbed part of the development permit area. Preferred plantings to be trees, shrubs and ground cover native to the area; all replantings to maintain and enhance the natural characteristics of the riparian area.

Maximum Height

4. The shoreline retaining device shall not exceed 1 metre in height as measured from the natural grade pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.

Engineering

5. The shoreline retaining device is to include a mechanism to drain soils from the upland without allowing for the loss of upland soils to the marine environment. A filter fabric barrier to restrain upland soils is recommended.
6. The shoreline retaining device to be constructed in accordance with engineering standards and certified by a professional engineer to the satisfaction of the RDN.

Construction

7. The shoreline retaining device shall be in the form of a retaining wall, rip rap or a combination of both.
8. Any excavated materials must be placed upland such that there is no potential for introduction onto the foreshore.
9. Machinery should be in good working condition and no fuels, lubricants or construction wastes are permitted to enter the marine or fresh water environments. No refueling of machinery is to be conducted within 100 metres of the watercourse. Machinery should operate from the upland only.
10. Prior to any construction commencing install temporary fencing (snow or 'hi-vis' fence) to delineate where heavy machinery or land alteration is not permitted. The fencing shall be removed once all development activity has been completed.
11. A spill kit should be on site to prevent the introduction of any fuels in the event of a spill. If a spill occurs, the Provincial Emergency Program must be contacted.
12. Any excavated material must be placed upland such that there is no potential for introduction into French Creek or onto the foreshore.
13. Concrete poured on site must be fully contained in forms. Concrete, concrete fines, concrete wash, concrete dust or other concrete materials are not permitted to enter any watercourse as these concrete materials are extremely toxic to fish and other freshwater organisms when uncured. It is your responsibility to ensure that materials necessary to ensure that concrete materials are contained and prohibited from entering the watercourse will be on-site for use during and after construction.



MEMORANDUM

REGIONAL DISTRICT OF NANAIMO			
FEB 19 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
			Call ✓

TO: Pamela Shaw
Manager, Community Services

DATE: February 19, 2002

FROM: Susan Cormie, Senior Planner

FILE: 3060 30 0206

SUBJECT: Development Permit Application No. 0206
Nanose Hill Station / Fern Road Consulting
Electoral Area 'E', 1660 / 1666 East Island Highway & 1642 East Island Highway

PURPOSE

To consider a development permit for changes to the existing site plan involving the development of a gasoline service station / fast food outlet and for the placement of the associated retention pond and septic disposal systems.

BACKGROUND

This is an application for a development permit to facilitate a number of changes to the commercial development under construction on a parcel located at 1660 / 1666 East Island Highway and legally described as Lot 1, of Amended Lot 167 (DD 66169-N), Nanose District, Plan 9428 Except Parcel A (DD 80609-N) Thereof; and Except Part in Plan 19267. The application also involves the adjacent parcel located at 1642 East Island Highway and legally described as Lot 2, of Amended Lot 167 (DD66169N), Nanose District, Plan VIP65823 (see Attachment No. 1 for location).

The first subject property, located at 1660 / 1666 East Island Highway, is currently zoned Commercial 4 (CM4) pursuant to the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 and is designated within the Form and Character Development Permit Area pursuant to the Nanose Bay Official Community Plan Bylaw No. 1118, 1999 (OCP). There is currently an active development permit in place for the construction of a gasoline service station / fast food outlet.

The second subject property, located at 1642 East Island Highway, is currently zoned Rural 5 (RU5) pursuant to Bylaw No. 500, 1987 and is designated within the Watercourse Protection Development Permit Area pursuant to the OCP. The retention pond system and septic disposal system for the commercial use is proposed to be located on this parcel and is within the development permit area.

The applicant is requesting a number of changes to the current development permit (No. 0018) including increasing the number of off-street parking spaces, changing the landscaping plan, moving and enlarging the refuse disposal area, relocating and increasing the size of the propane tank, increasing the number and relocating the lamp standards, and amending the originally approved site grade (see Attachment No. 2). In addition, the applicant is also requesting that the development permit address the placement of a retention pond system and septic disposal field (required as part of the gas station / fast food development) which are to be located on the adjacent property known as 1642 East Island Highway

within the Nanoose Bay OCP Watercourse Protection Development Permit Area from the natural boundary of Nanoose Creek.

Variances Required

As a result of these proposed changes, a variance to Bylaw No. 500, 1987 is required for the new off-street parking area as follows:

- parking stall depth to curb requirement proposed to be varied from 5.8 metres to 5.4 metres for the off-street parking spaces located between the Island Highway and principle building.

The site plan was also referred to the Ministry of Transportation for comments.

ALTERNATIVES

1. To approve Development Permit No. 0206 subject to the conditions outlined in Schedule '1' and notification requirements pursuant to the *Local Government Act*.
2. To deny Development Permit No. 0206.

DEVELOPMENT IMPLICATIONS

Off-Street Parking Area

The applicant is proposing to increase the number of off-street parking spaces from 22 to 38. The additional off-street parking area is proposed to be located between the main building and the East Island Highway. A minor variance to the stall depth to curb requirement is necessary so as not to disturb some existing mature trees, which are part of the overall landscaping.

Landscaping Implications

The applicant has not included all the landscaping elements on the new site plan that have been approved on the site plan issued under Development Permit No. 0018. The landscaping set out in Development Permit No. 0018 will still apply. In addition to the landscaping requirements, the applicant wishes to include additional landscaping along the northeast side of the entrance into the gas station property. Staff also recommends that landscaping be placed around the proposed refuse disposal containers.

Lighting Standards / Propane Tank Implications

The applicant has revised the number and location of the light standards as set out in DP0018. Two of the seven light standards are from the previous use on the site and were allowed to be retained within the standard height provisions (maximum 8.0 metres) under DP0018 however also require an allowance to finished grade where fill has been placed on the site. The applicant is proposing to relocate one of these used standards to the access. The five new standards are proposed to be a maximum of 6.1 metres in height from finished grade. To ensure that the development permit guidelines may be met, staff recommends that the lighting be directed to the adjacent ground and not be obtrusive to Island Highway traffic or the surrounding rural properties.

The propane tank is proposed to be larger in volume and the base substantially wider, but the overall height will be 0.9 metre less in height than the propane tank approved under DP0018. The proposed new location will better serve the site layout.

Ministry of Transportation

Ministry of Transportation staff has reviewed the access and traffic flow pattern for the new site plan and have verbally agreed to the layout.

Site Grade Implications

The applicant has raised the overall site grade by an average of approximately 1.0 metre with up to 2.0 metres at the rear of the property for the purposes of improving the access into the site as recommended by the Ministry of Transportation. Despite this increase in the grade, the principle building is still within the maximum height requirements pursuant to Bylaw No. 500, 1987.

Environmental Implications

Nanoose Creek, as a fish-bearing stream, supports Coho, Chum, Cutthroat Trout, and Steelhead. Therefore, all works adjacent to this watercourse must be undertaken with due diligence in order to avoid any violations under the Federal *Fisheries Act*. Due diligence can be achieved by undertaking works to be consistent with the Land Development Guidelines for the Protection of Aquatic Habitat published by Federal Fisheries and Oceans (DFO) and the Ministry of Environment, Lands and Parks.

The retention pond system is proposed to be comprised of two ponds approximately 1,800 m² in size, constructed of earth berms and sand filters with a clay liner, and located a minimum 9.0 metres from the Crown Land boundary. The purpose of these ponds is to provide settlement and filtration of sediment that is carried in the storm water, which is collected from the gas station / fast food outlet site. Infiltration ponds such as the proposed system can provide recharge to the local area groundwater, which in turn feeds smaller streams. This groundwater is slowly recharged back into streams and constitutes part of the stream's base flow. The retention pond system has been designed to accommodate a one-in-ten year storm event which exceeds Land Development Guidelines.

The outflow from the retention pond system must be designed so that it does not adversely impact Nanoose Creek, as the introduction of any deleterious substance into Nanoose Creek would be a violation under the Federal *Fisheries Act*. Therefore, any flow must be directed away from Nanoose Creek and must not be concentrated such that erosion can occur. In addition, planting riparian vegetation in that area between Nanoose Creek and the pond system as far as the outflow would improve the rate of infiltration of any outflow being discharged from the ponds.

The proposed retention pond system is designed to require little maintenance. However, it is recommended that the pond system receive a maintenance inspection at least twice a year to ensure that it is operating properly. It is recommended that this inspection be done at the beginning and end of the winter rain season. The inspection would involve walking the perimeter of the ponds to determine if any sloughing or contaminants were introduced into the pond system. If any problems are identified during these regular inspections, they must be rectified immediately. In the long term, when the filtered sand layer becomes clogged with fine materials and the filtration process slows down the filtered sand must be removed and replaced with clean sand.

The septic disposal field is proposed to be located at a minimum of 25.0 metres from the natural boundary of Nanoose Creek. The *BC Sewage Regulations* require that septic fields be located a minimum of 30.0 metres from the high water mark of a watercourse. Therefore, the location of the septic disposal system needs to be verified by the Ministry of Health. It is also recommended that the septic field be inspected twice a year to ensure proper functioning.

OFFICIAL COMMUNITY PLAN IMPLICATIONS

The application is considered to be consistent with the applicable guidelines of the Form and Character Development Permit Area pursuant to Bylaw No. 1118, 1999.


Subject to the conditions being met with respect to the protection of Nanoose Creek, the application is consistent with the applicable guidelines of the Watercourse Protection Development Permit Area pursuant to Bylaw No. 1118, 1999.

SUMMARY

This is an application for a development permit to amend the site plan approved under Development Permit No. 0018 and to allow for the placement of a retention pond system and a septic disposal field within the Watercourse Protection Development Permit Area for Nanoose Creek on the adjacent parcel. The application is considered to be consistent with the guidelines for both the Form and Character Development Permit Area and the Watercourse Protection Development Permit Area. A variance will be required for the stall depth to curb requirement for the new off-street parking area pursuant to Bylaw No. 500, 1987. The Ministry of Transportation staff has verbally approved the site layout in terms of access and traffic flows. Confirmation from the Ministry Of Health verifying approval of the septic disposal system is required as a condition of the Permit. In order to ensure the retention pond system is constructed to be consistent with the Land Development Guidelines, it is recommended that the development permit contain conditions dealing with sediment and erosion measures as well as requirements for the maintenance and replanting of the riparian area. It is also recommended that the landscaping be enhanced around the refuse disposal area. Therefore, as the proposal will meet the applicable development permit guidelines, staff recommends Alternative No. 1 to approve the development permit subject to the conditions and proposed variances outlined in Schedule '1' and subject to the notification provisions pursuant to the *Local Government Act*.

RECOMMENDATION


That Development Permit No. 0206 for the changes to the site plan of the gasoline service station / fast food outlet and for the placement of retention pond system and septic disposal system on the properties legally described as Lot 1 Plan 9428 Except Parcel A (DD 80609-N) Thereof; and Except Part in Plan 19267 & Lot 2, Plan VIP65823, Both of Amended Lot 167 (DD 66169-N), Nanoose District, be approved subject to the conditions and variances outlined in Schedule '1' of the staff report and the notification requirements pursuant to the *Local Government Act*.



Report Writer



General Manager Concurrence



Manager Concurrence



CAO Concurrence

COMMENTS:

dp fs 3060 30 0206 Nanoose Hill Station.doc

SCHEDULE '1'
CONDITIONS OF APPROVAL FOR
DEVELOPMENT PERMIT NO. 0206

These conditions are in addition to the conditions set out in Development Permit No. 0018.

1. Landscaping

- a) Landscaped areas, in addition to the landscaping outlined in DP0018, shall include the area around the propane tank, the areas adjacent to the access, the refuse container area, and the new off-street parking areas.
- b) Landscaping, in addition to the landscaping requirements under Development Permit No. 0018, shall be provided as shown on Schedule No. '2' and shall, at the minimum, satisfy the following criteria:
 - i. Landscaping shall be totally comprised of biologically diverse and drought resistant plants.
 - ii. Individual plants to be used in the landscaping shall have normal, well developed branches and vigorous, fibrous root systems; such plants shall be healthy, vigorous and free from defects, decay, disfiguring roots, sunscald, injuries, abrasions of the bark, plant diseases, insect pests' eggs, borers and all forms of infestations or objectionable disfigurements.
 - iii. All landscaping shall be permanently maintained in good condition with, at the minimum, the same quality and quantity of landscaping as was initially approved and within alteration of the approved design; the owner shall make provisions for the permanent irrigation works necessary to water the landscaping.
 - iv. The design of landscaping shall be such that the growth of roots, trunks, and branches of natural or introduced vegetation or the location of planted berms shall not conflict with the utilities, structures, necessary access, or required sight triangle.
 - v. All landscaped areas shall be constructed with a permanent curb, a minimum of 15 cm in height, to protect all landscaped areas from potential vehicular damage.
- c) Any trees previously removed are to be replaced in a location satisfactory to the RDN and must be to BCLSA/BCLNA standard.
- d) All new plantings shall be, at a minimum, to BCLSA/BCLNA standards.
- e) Landscaped areas adjacent to the Island Highway shall, at a minimum, meet the requirements as set out in Bylaw No. 500, 1987 with respect to landscape buffer provisions.

2. Off-Street Parking Spaces and Aisle Ways

- a) A minimum of 38 off-street parking spaces shall be provided as shown on Schedule No. 2 (site plan prepared by Newcastle Engineering, Drawing No. 22, Revision No. 06 and dated February 15, 2002).
- b) All parking areas, including aisle ways, shall be constructed to Bylaw No. 500 standards and all parking spaces shall be clearly delineated through the use of painted lines on paved surfaces or parking stops on compacted and dust free surfaces.
- c) Directional arrows to be painted on all parking areas as shown on Schedule No. 2.

3. Lighting of the Commercial Site

Lighting standards shall be located as shown on Schedule No. 2 and lighting shall be directed to the immediate surrounding ground and be unobtrusive to Island Highway traffic and the surrounding properties. Two lamp standards to a maximum height of 8.0 metres from finished grade and five lamp standards to a maximum height of 6.1 metres from finished grade.

4. Overall Grade of Site (Commercial Site)

The overall grade of the commercial site area is permitted as shown on Schedule No. 2

5. Outdoor Refuse Area

The outdoor refuse containers shall be screened by a combination of cedar fencing and landscaping plants. The plants shall be of a size to provide adequate screening of the refuse area. Gates shall be included as part of the screening.

6. Sediment and Erosion Control Measures

Sediment and erosion control measures must be utilized to control sediment during construction of the retention pond system, the septic disposal field, land clearing works and to stabilize the site after construction is complete. These measures must include:

- i) tarps, sand bags, poly plastic sheeting and/or filter fabric are required to be onsite.
- ii) direct run off flows away from the marine environment using swales or low berms.
- iii) exposed soils must be seeded immediately after disturbance.
- iv) cover temporary fills or soil stock piled with polyethylene or tarps.

7. Federal Fisheries and Oceans

- a) Department of Federal Fisheries staff to be contacted prior to commencing any construction of the retention pond system.
- b) All construction undertaken within the riparian area must be consistent with the Land Development Guidelines for the Protection of Aquatic Habitat.

8. Retention Pond System

Inspection of the retention pond system is required twice a year at the beginning and end of the winter rain season. Any problems associated with the operation of the pond system must be corrected immediately.

9. Septic Disposal Field

- a) Proof of verification from the Ministry of Health with respect to the current septic disposal permit.
- b) Inspection of the septic field system is required twice a year. Any problems associated with the operation of the septic system must be corrected immediately.

10. Riparian Planting

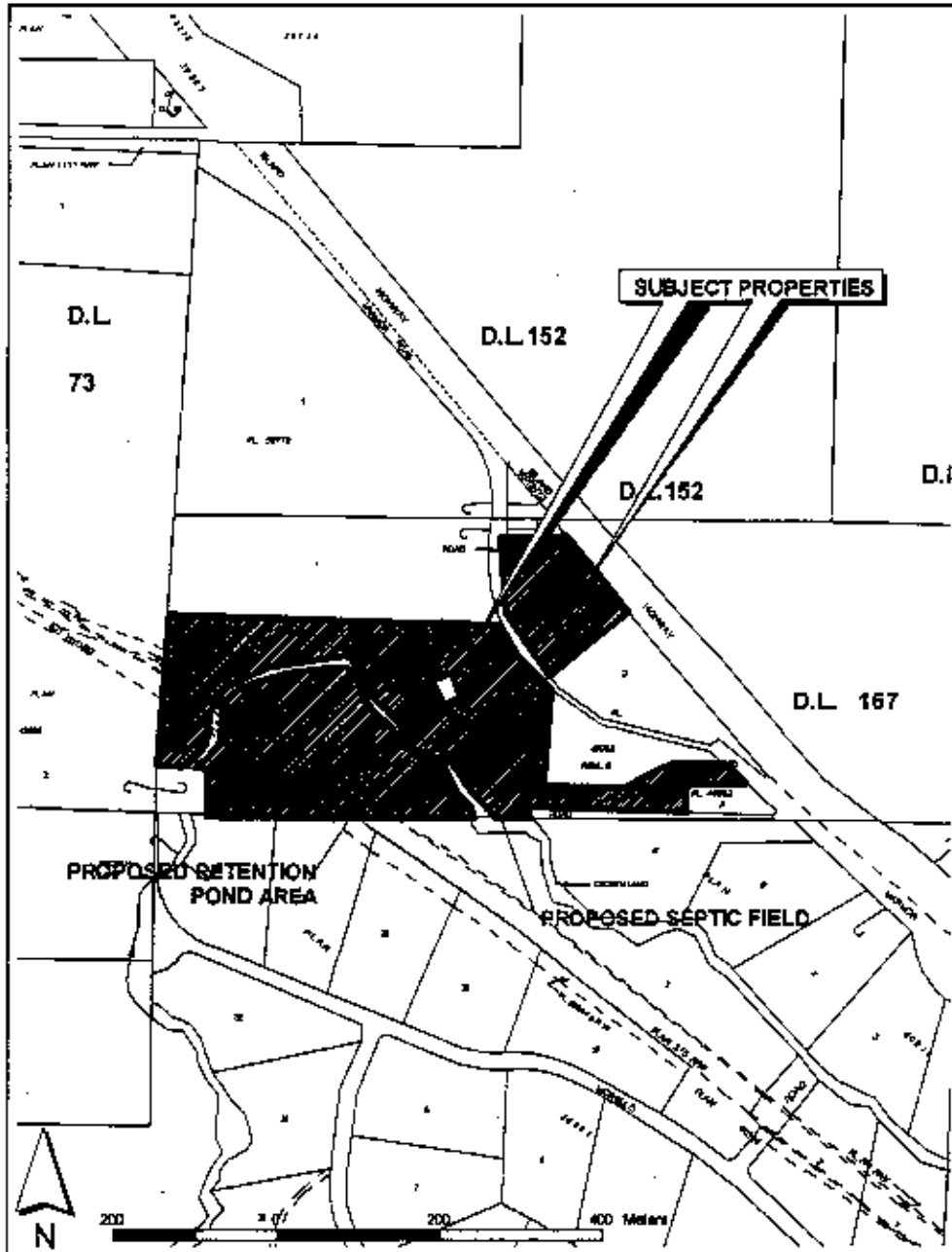
Planting native vegetation within the disturbed riparian area is required for the disturbed area between Nanoose Creek and the retention pond system as far as the outflow pipe. Preferred plantings to be trees, shrubs, and groundcovers native to the area and shall be to BCLAS/BCLNA standards. All new plantings are to maintain and enhance the natural characteristics of the riparian area.

REQUESTED VARIANCES

With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987 the following variance is requested:

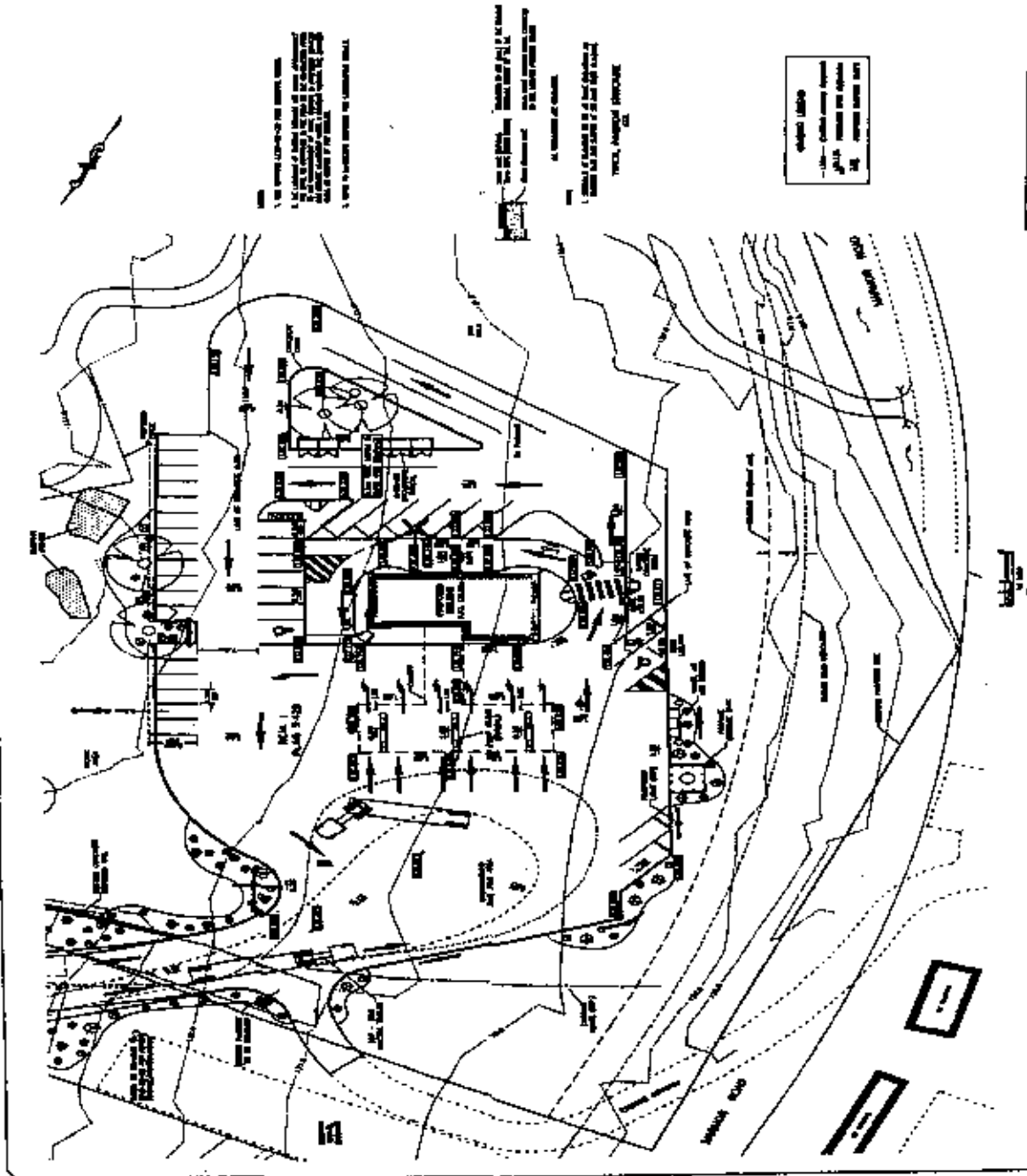
- Table 2 of Schedule '6B' is proposed to vary the parking stall depth to curb requirement from 5.8 metres to 5.4 metres for the off-street parking spaces located between the Island Highway and principal building.

ATTACHMENT No.'1'
LOCATION OF SUBJECT PROPERTY
DEVELOPMENT PERMIT 0206



ATTACHMENT NO. '2'

PROPOSED SITE PLAN
(As submitted by applicant)





REGIONAL DISTRICT OF NANAIMO	
FEB 19 2002	
CHAIR	GMCrs
CAO	GMDS
GMCms	GMES
E.H. Planning	
DATE: _____	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Deborah Jensen
Planner

SUBJECT: Development Variance Permit Application - Karasink
Lot 6, District Lots 8 and 78, Nanoose District, Plan 28595
Electoral Area 'E' - 3741 Mallard Place

PURPOSE

To consider an application for a Development Variance Permit to facilitate the construction of an addition to a single dwelling unit located on a steep slope, and to legalize the siting of the dwelling unit, carport, and decking. This application requires a variance to the maximum dwelling unit height, and to the minimum setback requirements for the interior side lot line front lot line.

BACKGROUND

The subject property is a 0.28 hectare (0.68 acre) parcel located adjacent to Mallard Place (see Attachment No. 1). The property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," and is located in a Building Inspection area, therefore, permits are required for any buildings or structures. The parcel is subject to two easements, registered to the title of the property, which allows for access to Lots 4 and 5, located directly north of the subject property.

The existing dwelling unit was originally constructed in 1979 and met all setback requirements for "Regional District of Nanaimo Bylaw No. 53, A Bylaw to Regulate the Location and Use of Buildings and Structures and the Use of Land, Including the Surface of Water, in that Portion of the Regional District of Nanaimo Known as the Nanoose Bay Planning Area, 1973," in effect at that time. A resolution by the Board of Variance dated September 26, 1979 also allowed relaxation of the bylaw's height limitations to allow construction of the dwelling unit, as proposed and issued by building permit.

Application for a building permit to construct a carport was also made in 1984, subject to development permit requirements, and registered on title by covenant, that the carport be sited no less than 1.5 metres from the front lot line and that the Ministry of Transportation and Highways approve the encroachment into the road allowance (see Schedule Nos. 2, 3 and 4). Staff notes that a site survey was not a requirement of Building Inspection at that time, and a site inspection for the carport construction was never completed. A subsequent site survey indicates the actual distance of the carport from the front lot line is 0.7 metres (see Schedule No. 5).

Decking has also been erected on the property, with a portion providing walkways along the house, and the remainder acting as landscaping along the southern portion of the property. The southeast portion of the deck, constructed at ground level, does encroach onto the adjacent property by 1.66 metres. The adjacent property owner is aware of this encroachment and recognizes their right to have the decking removed.

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Proposed Variances

Under the “Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987,” the maximum dwelling unit height within a Residential I (RS1) zone is 8.0 metres, and the minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line and interior side lot lines; and 5.0 metres from other lot lines. The applicants have indicated that topographical and physical constraints of the subject property preclude the development of an addition to the existing dwelling unit on a site that would not require variances to Bylaw No. 500. The extremity of the variance to maximum dwelling unit height is due solely to location of the dwelling unit on a steep slope, and the roof ridge of the proposed dwelling unit will, in fact, be at a lower elevation than that of the existing dwelling unit (*see Schedules No. 6 and 7*).

In addition, a site visit conducted by RDN staff identified the carport and deck as structures in contravention of building permit requirements and height and setback requirements pursuant to Bylaw No. 500. Therefore, based upon a change in the zoning bylaw, updated information for location of buildings and structures, and the proposed addition to the dwelling unit, the following variances are requested:

1. To vary the maximum dwelling unit height from 8.0 metres (26.2 feet) to approximately 12.7 metres (41.7 feet), as per the submitted plans, to facilitate the construction of an addition to the existing dwelling unit.
2. To vary the front lot line from 8.0 metres (26.2 feet) to 0.7 metres (2.3 feet) to legalize the siting of a carport.
3. To vary the interior side lot line from 2.0 metres (6.6 feet) to 0.0 metres (2.6 feet) to legalize the siting of the existing dwelling unit.
4. To vary the interior side lot line from 2.0 metres (6.6 feet) to 0.0 metres (0.0 feet) to legalize the siting of the existing deck.

Staff also suggest the covenant registered on title addressing the carport location be discharged, and the above-noted proposed variance be implemented to replace this covenant.

ALTERNATIVES

1. To approve Development Variance Permit No. 0204 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested development variance permit.

VOTING

Electoral Area Directors - one vote, except Electoral Area ‘B’.

ENVIRONMENTAL IMPLICATIONS

The subject property is located in an environmentally sensitive area for “Steep Slopes” as identified by the “Regional District of Nanaimo Nanoose Bay Official Community Plan Bylaw No. 1118, 1998.” While the subject property is located on a steep slope of predominately bedrock, the parcel is not subject to a development permit area.

LAND USE IMPLICATIONS

The subject property is located on a steep slope, consisting primarily of bedrock, and descending from south to north toward the ocean. The road right-of-way for Mallard Place is situated above the subject dwelling unit. The width of the subject property and depth of adjacent properties provides a vegetated buffer between the subject dwelling unit and other dwelling units located to the east and west, where the dwelling units have been sited along the coastline. Dwelling units located to the south are sited at a higher elevation than the subject property.

From staff's assessment of this application, the potential impact of the height and setback variances is reduced due to the topographical location of the subject parcel on a steep slope, and the lack of other dwelling units within the immediate vicinity. Staff notes the topography of the site does result in a limited developable area for buildings and structures.

SUMMARY/CONCLUSIONS

This is an application for a Development Variance Permit to facilitate the construction of an addition to an existing single dwelling unit. The application includes a request to relax the maximum dwelling unit height from 8.0 metres (26.2 feet) to approximately 12.7 metres (41.7 feet) as per the submitted plans, and to vary the minimum setback requirement for an interior side lot line from 2.0 metres (6.6 feet) to 0.0 metres (0.0 feet) to legalize the existing dwelling unit and decking and for the front lot line from 8.0 metres (26.2 feet) to 0.7 metres (2.3 feet) to legalize the existing carport. Staff recommends this application be approved subject to notification procedures pursuant to the *Local Government Act*.

The applicant is attempting to correct the non-conforming status of uses on the property by applying for these variances. Staff also suggest the Development Permit registered on title via covenant should be discharged and replaced by this Development Variance Permit. Should the Board approve the requested variances, the applicant must apply for all necessary building permits.

RECOMMENDATION

That Development Variance Permit No. 0204, submitted by Ken Karasiuk and Janice Karasiuk, to facilitate the construction of an addition to an existing single dwelling unit by relaxing the maximum dwelling unit height from 8.0 metres to approximately 12.7 metres as per the submitted plans, and by varying the minimum setback requirement for an interior side lot line from 2.0 metres to 0.0 metres to legalize the existing deck and dwelling unit and for a front lot line from 8.0 metres to 0.7 metres to legalize the existing carport, and to discharge the Section 215 Covenant held by the Regional District of Nanaimo for the property legally described as Lot 6, District Lots 8 and 78, Nanoose District, Plan 28595 be approved as submitted subject to notification requirements pursuant to the *Local Government Act*.

Report Writer

General Manager Concurrence

Manager Concurrence

CAO Concurrence

COMMENTS:

devsvs/reports/2002/dvp fe 3090 30 0204 Karasiuk.doc


Schedule No. 1

1. Variances are subject to compliance with building permit regulations for existing and proposed buildings and structures.
2. Approval from the Ministry of Transportation for relaxation within the 4.5-meter road allowance for siting of the carport along Mallard Place.
3. Removal of encroaching landscaping from the adjacent property, that is Lot 8 of Plan 28595, or confirmation from the Lot 8 property owner that no issue is taken with this encroachment.

Schedule No. 2 (Page 1 of 2)
 Section 215 Covenant
 Registered to Regional District of Nanaimo

02/09/02 WED 11:37 FAX 250 384 6431 VICTRO REGISTRY ↔ EDN

008/011

 Regional District of Nanaimo 6300 Hammond Bay Road R.O. Box 40, Ladysmith, VON 3X0 DEVELOPMENT PERMIT	APPLICATION NO: <u>8401-2024</u> PERMIT NO: <u>8401-2024-02</u>
	FOLIO NO: <u>169.09894.480</u> BY-LAW NO: <u>33</u> PLANNING AREA: <u>NANOOSE</u> MAP REF: <u>2024</u> SITE AREA: <u>42 m x 72 m</u>

Covenant No. N69530

TO: (Permittee) Dean, Constance M.
 ADDRESS: 2851 Glen Drive
 PORT COQUITLAM, B.C.
 V3B 2P6

1. Notwithstanding the conditions varied or supplemented by this Permit, this Development Permit is issued subject to compliance with all applicable by-laws, and Provincial and Federal statutes and regulations.

2. This Development Permit applies to and only to those lands within the Regional District described below, and all buildings, structures and other development thereon:
 LEGAL DESCRIPTION: Lot 5, District Lots 8 and 79, Nanoose District, Plan 28598

3. The land described herein shall be developed strictly in accordance with the following terms and conditions and provisions of this Permit: as per Schedule 'A' attached.


4. a) The development shall be carried out according to the following time schedule: N/A
 b) If the Permittee does not commence the development permitted by this Permit within 24 months of the date of this Permit, this Permit shall lapse.

5. As a condition of the issuance of this Permit, the Regional District is holding the security set out below to ensure that development is carried out in accordance with the terms and conditions of this Permit. The amount of security to be paid by the Permittee shall be determined by the Planning Director or his/ her appointee. Should any interest be charged upon the security, it shall accrue to the Permittee and be paid to the Permittee if the security is returned. The condition of the posting of the security is that should the Permittee fail to carry out the development hereby authorized, according to the terms and conditions of this Permit, the Regional District may use the security to carry out the work by its agents or contractors and any expense incurred beyond the value of the security shall be charged to the Permittee in the form of taxes against such property and any surplus shall be paid over to the Permittee, or should the Permittee satisfy the conditions of this Permit the security shall be returned to the Permittee. There is that understanding:

a) a Surety Bond in the amount of \$ N/A
 b) a Performance Bond in a form acceptable to the Regional District in the amount of \$ N/A
 c) an irrevocable letter of credit in the amount of \$ N/A
 d) a certified cheque in the amount of \$ N/A

6. THIS PERMIT IS NOT A BUILDING PERMIT.

Authorizing Resolution Passed by the Board this 26th day of June, 1984
 issued this 27th day of June, 1984


 Planning - Director

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Schedule No. 2 (Page 2 of 2)
Section 215 Covenant
Registered to Regional District of Nanaimo

02/06/02 WED 11:38 FAX 250 384 6431 VICTRO REGISTRY --- RDN

008/011

Covenant No. N65530

5

REGIONAL DISTRICT OF NANAIMO
DEVELOPMENT PERMIT NO. 8403-2004-01
SCHEDULE 'A'

3. The land described herein shall be used strictly in accordance with the following terms and conditions of this Permit:

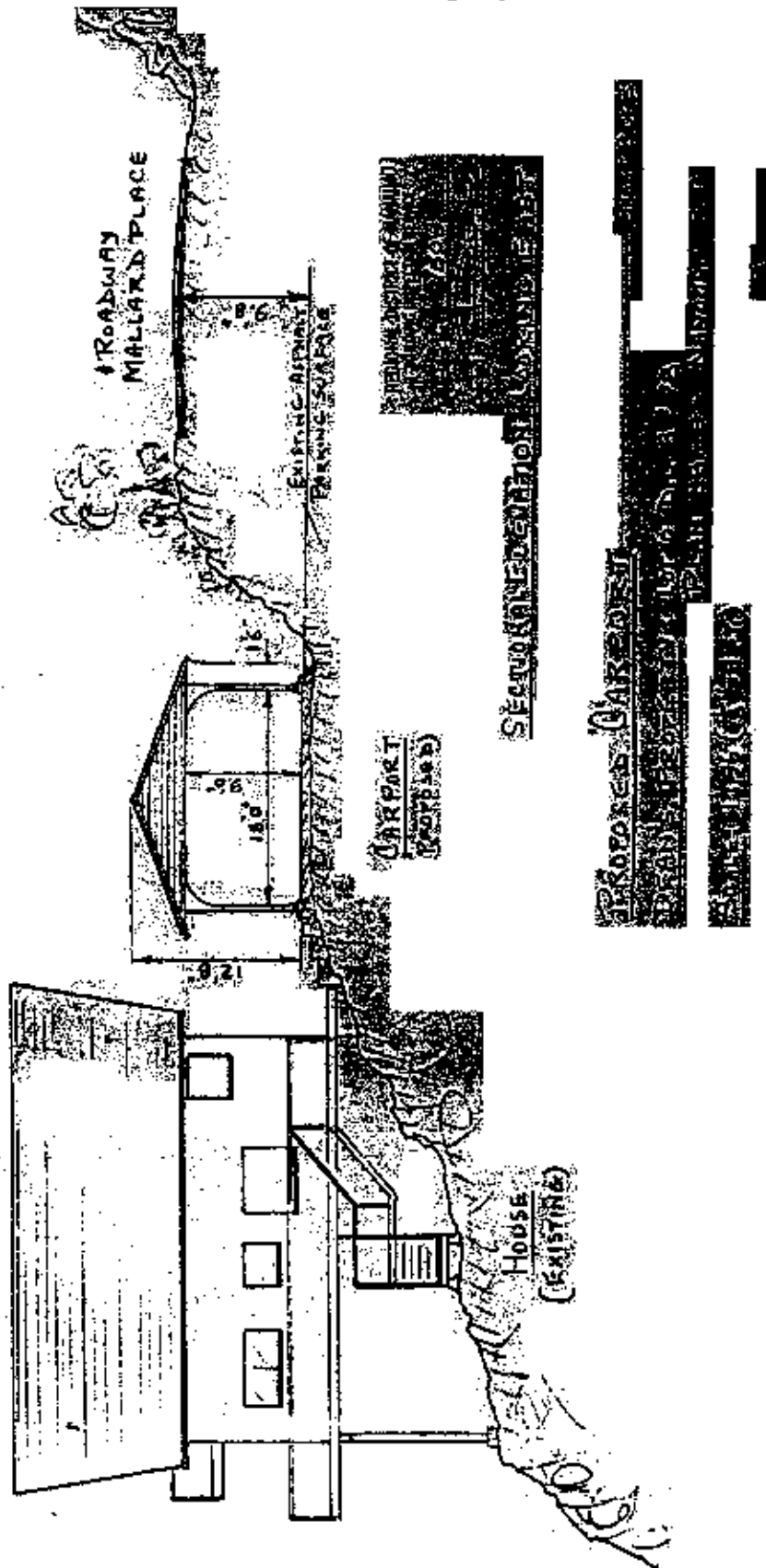
- a) That no part of the storage garage be constructed closer than 1.3 metres from the front (southerly) lot line.
- b) That the siting of the storage garage be approved by the Ministry of Transportation and Highways.

OK
mg
f

Dated this 27th day of June, 1988.


F. Rosenberg
Planning Director

Schedule No. 3
Proposal for Carport Construction
Submitted 1984 to Building Inspection



Schedule No. 4

Ministry of Transportation and Highways Approval
Pursuant to Section 215 Covenant



File and Letter No. 53 PA-01/84



Province of British Columbia
Ministry of Transportation and Highways

Highway District of Alberni

The Minister of Transportation and Highways has approved, subject as to the conditions as set out in this permit, the construction of a building, the location of which does not conform with B. C. Regulation 822/74 made pursuant to Section 42 (1) of the Highway Act, R.S.B.C. 1979, namely:
To construct a 9.8 metre by 5.5 metre wood frame free standing carport on Lot 6, Plan 28595, District Lot 8 and 78, Nanoose District, no closer than 1.5 metres from the right-of-way of #2312 Mallard Place. Located approximately 8.0 km north of Nanoose. In accordance to application and sketch as submitted by E. Dean dated February 16, 1984.
This Permit does not authorize any future alterations or additions. Please note that this Permit does not relieve the permittee from complying to all applicable regulations and restrictions, ie: zoning, building, highways, etc.

This permit may be terminated at any time at the discretion of the Minister of Transportation and Highways, and that the termination of this permit shall not give rise to any cause of action or claim of any nature whatsoever.

This Permit is issued to:

Robert S. Dean
Box 2, R.R. #2, Nautilaus Road
Nanoose Bay, B.C.

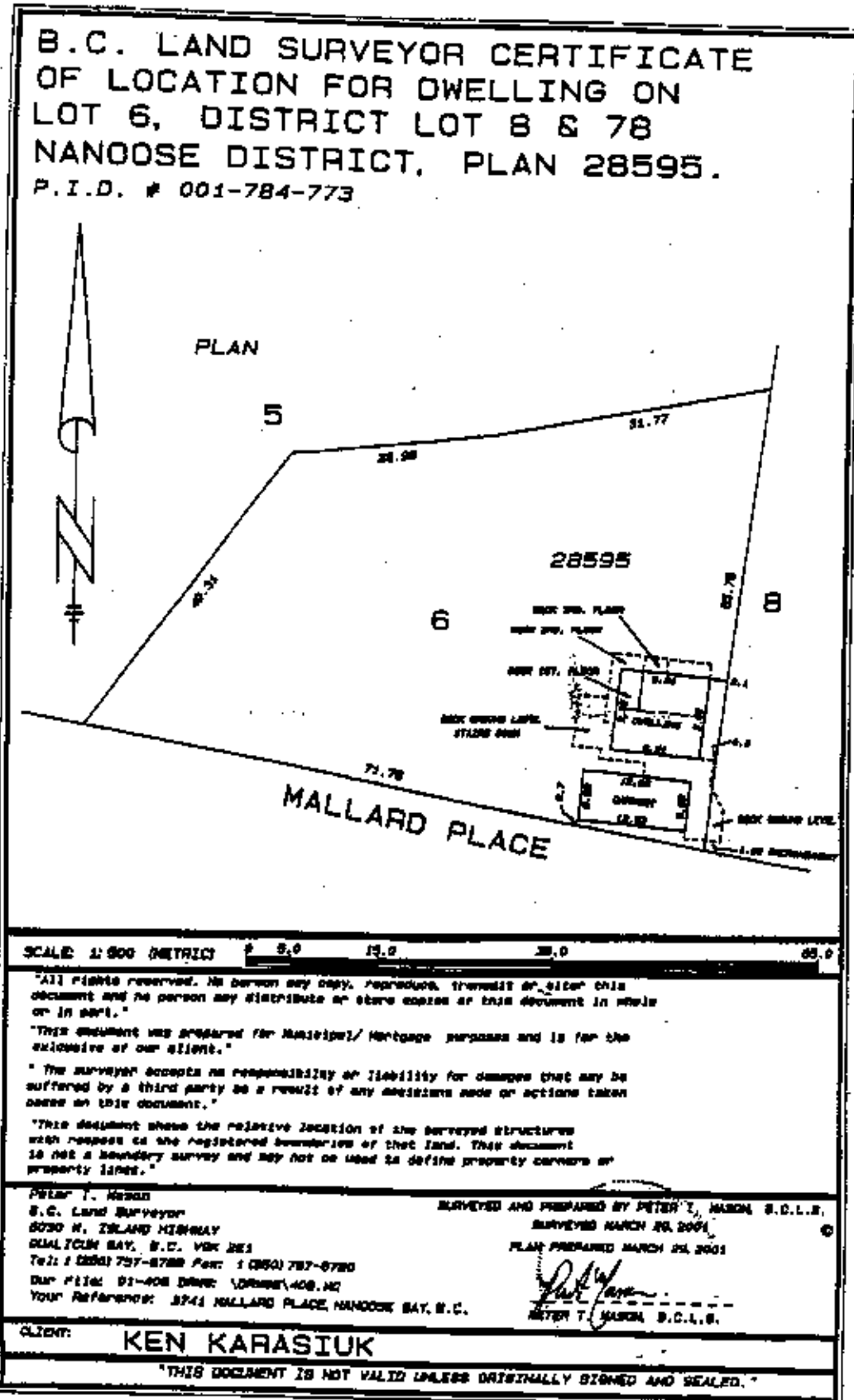
R.W. G...

for Deputy Minister of Transportation and Highways

Date: July 4, 1984

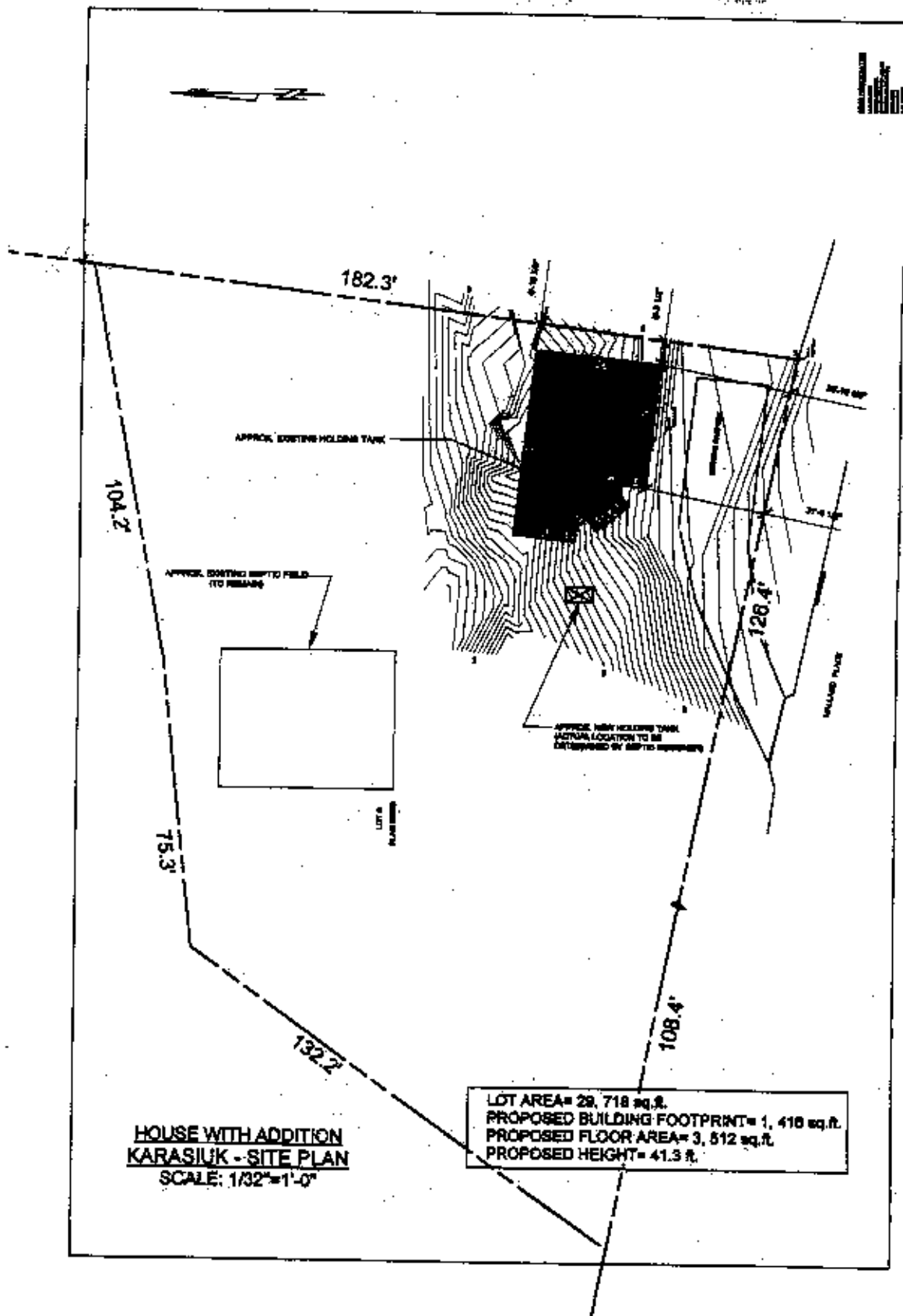
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Schedule No. 5
 Site Survey Issued March 2001
 (As Submitted by Applicant)

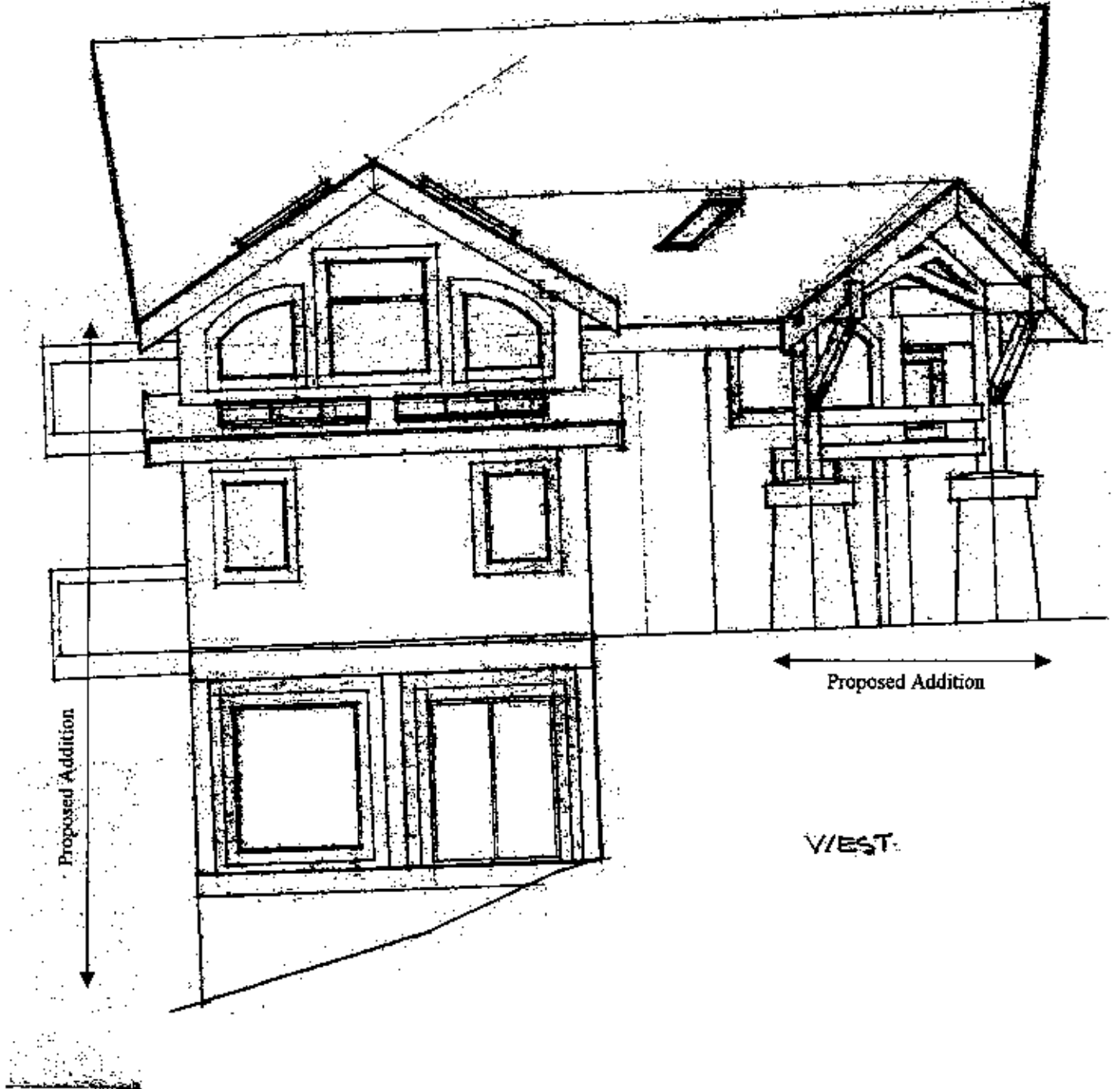


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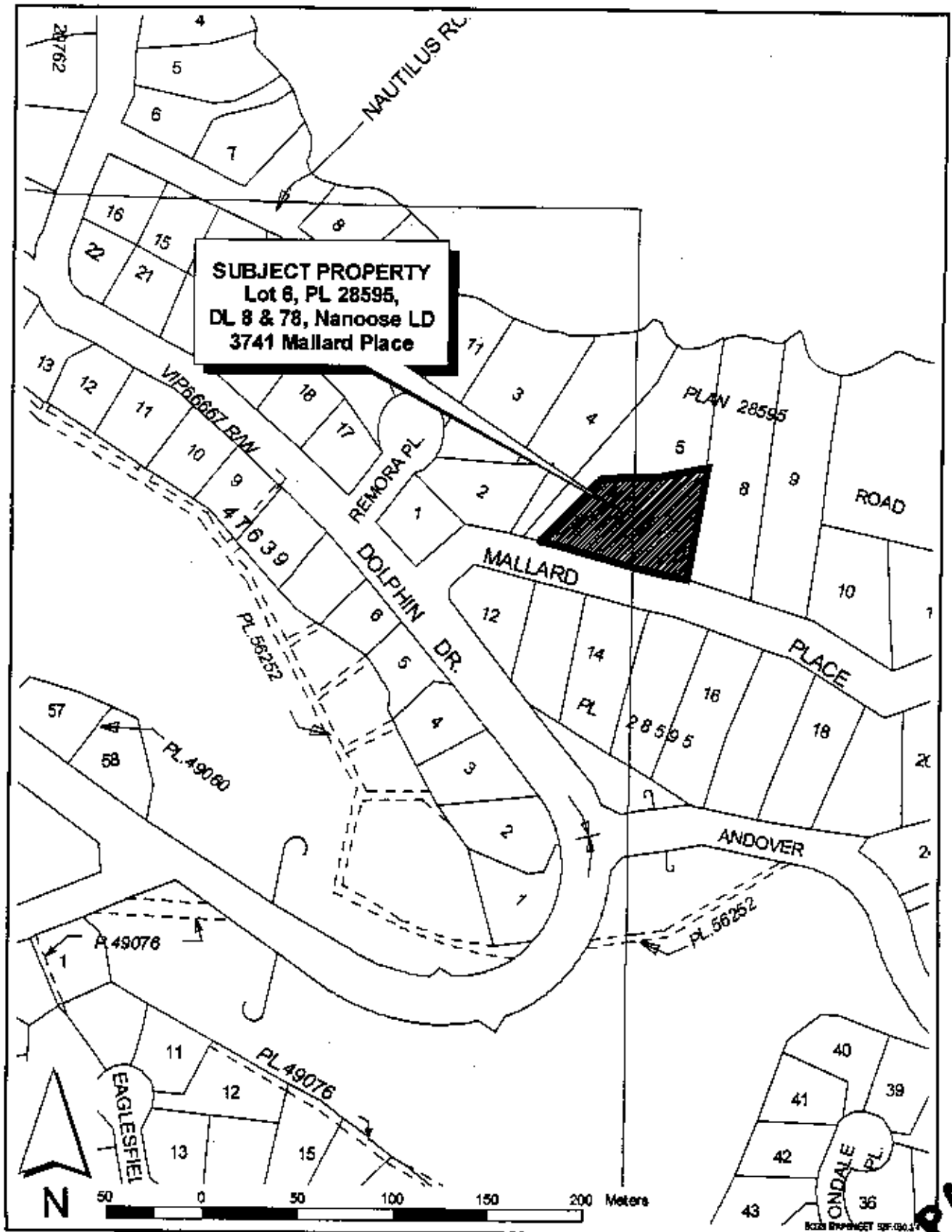
Schedule No. 6
Site Topography and Proposed Addition
(As Submitted by Applicant)



Schedule No. 7
Side Profile of Proposed Addition
(As Submitted by Applicant)



Attachment No. 1
Subject Property Map





REGIONAL DISTRICT OF NANAIMO	
FEB 18 2002	
CHAIR	GMCrs
CAO	GMDS
GMCS	GMES
<i>E.H. Planning</i>	
DATE: _____	

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Deborah Jensen
Planner

SUBJECT: Development Variance Permit Application – Sjostrom Ind. and Donner Lake Cont. That Part of Block 645, Douglas District, Included Within the Area Coloured Red on Plan 403 RW
Electoral Area 'C' – Nanaimo River Road

PURPOSE

To consider an application for a Development Variance Permit to facilitate the development of a single dwelling unit, barn and shop.

BACKGROUND

This is an application to vary minimum setback requirements to the north and south lot lines to facilitate the construction of a single dwelling unit, barn and shop on a previously designated railway right-of-way located in Electoral Area 'C' (see Attachment No. 1). The subject property is a narrow linear parcel located near Nanaimo River Road, and accessed by an easement through the adjacent parcel.

Zoning and Proposed Variances

The subject property is zoned Resource Management 4 (RM4) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987," and located outside the building inspection area. The minimum setback requirements for buildings and structures in this zone are 20.0 metres from all lot lines, or 30.0 metres for buildings and structures utilized for housing livestock or for storing manure.

The siting and dimensions of the proposed buildings and structures are shown on Schedules No. 2 and 3. The applicants have indicated that topographical and physical constraints of the subject property preclude the development of the buildings on a site that would not require variances to Bylaw No. 500, and are therefore requesting to vary the minimum setback requirement for a building or structure by varying:

1. the south lot line from 20.0 metres (65.6 feet) to 0.0 metres (0.0 feet) for construction of a single dwelling unit;
2. the north lot line from 30.0 metres (98.4 feet) to 3.0 metres (9.8 feet) for construction of a barn;
3. the south lot line from 30.0 metres (98.4 feet) to 17.0 metres (55.8 feet) for construction of a barn;
4. the south lot line from 20.0 metres (65.6 feet) to 6.0 metres (19.7 feet) for construction of a shop; and
5. the north lot line from 20.0 metres (65.6 feet) to 14.0 metres (45.9 feet) for construction of a shop.

While the applicants had also proposed to construct a gazebo on the subject property, this request has been withdrawn from the application.

Legal Notations

A number of easements and statutory rights-of-way are registered to the title of the subject property. Statutory rights-of-way are in place for the purpose of access and water pipeline location. Additional easements also affect portions of the property for access to other parcels and/or placement of water, sewer and other utility systems.

ALTERNATIVES

1. To approve Development Variance Permit No. 0205 subject to the conditions outlined in Schedule No. 1.
2. To deny the requested permit.

ENVIRONMENTAL IMPLICATIONS

The subject property is not located in an environmentally sensitive area however, a steep slope is located adjacent to the south lot line and a watercourse does cross the property. The applicants have indicated all construction will meet the required 15.0 metre (49.2 feet) minimum setback from a watercourse. The subject property itself consists of a long linear shape 100 feet in width, which ranges from slight undulating grades to steep banks along access points. No features are indicated in the Environmentally Sensitive Areas Atlas on the subject property.

LAND USE IMPLICATIONS

From staff's assessment of this application, the potential visual impact of the proposed development and the setback variances is reduced due to the location of the subject property and use of surrounding parcels. The parcels located on both sides of the subject property are in the Forest Land Reserve and only one dwelling unit is located in the nearby vicinity of the proposed construction.

Development of the subject property is restricted due to topography and layout of the parcel. The pre-existing railway bed is long and narrow in shape. One area contains a watercourse, and other portions consist of relatively flat areas, steep grades or depressions. Location of easements and statutory rights-of-way registered to the property further restricts development in certain areas. As well, the layout of the parcel deems it very difficult to locate buildings and structures without the requirement of a variance to the required 20.0 metre minimum setback. The proposed building locations appear to be logical sites for construction of a single dwelling unit, barn and shop.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

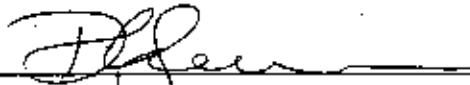
SUMMARY/CONCLUSIONS


This is an application for a development variance permit to facilitate the development of a single dwelling unit, barn and shop. The application includes a request to vary the minimum setback requirements for a building or structure: from 20.0 metres (65.6 feet) to 0.0 metres (0.0 feet) for the south lot line for construction of a single dwelling unit; from 30.0 metres (98.4 feet) to 3.0 metres (9.8 feet) for

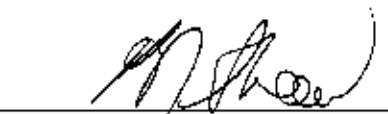
the north lot line for construction of a barn; from 30.0 metres (98.4 feet) to 17.0 metres (55.8 feet) for the south lot line for construction of a barn; from 20.0 metres (65.6 feet) to 6.0 metres (19.7 feet) for the south lot line for construction of a shop; and from 20.0 metres (65.6 feet) to 14.0 metres (45.9 feet) for the north lot line for construction of a shop. Staff recommends this application be approved subject to notification procedures pursuant to the *Local Government Act*.


RECOMMENDATION

That Development Variance Permit Application No. 0205, submitted by Dale Hodgins, Agent, acting on behalf of Sjoström Industries and Donner Lake Contracting to facilitate the development of a single dwelling unit, barn and shop, and vary the minimum setback requirements for a building or structure within a Resource Management 4 zone from 20.0 metres (65.6 feet) to 0.0 metres (0.0 feet) for the south lot line for construction of a single dwelling unit, from 30.0 metres (98.4 feet) to 3.0 metres (9.8 feet) for the north lot line for construction of a barn, from 30.0 metres (98.4 feet) to 17.0 metres (19.7 feet) for the south lot line for construction of a barn, from 20.0 metres (65.6 feet) to 6.0 metres (19.7 feet) for the south lot line for construction of a shop, and from 20.0 metres (65.6 feet) to 14.0 metres (45.9 feet) for the north lot line for construction of a shop for the property legally described as That Part of Block 645, Douglas District, Included Within the Area Coloured Red on Plan 403 RW, be approved as submitted subject to the notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrence


Manager Concurrence


CAO Concurrence

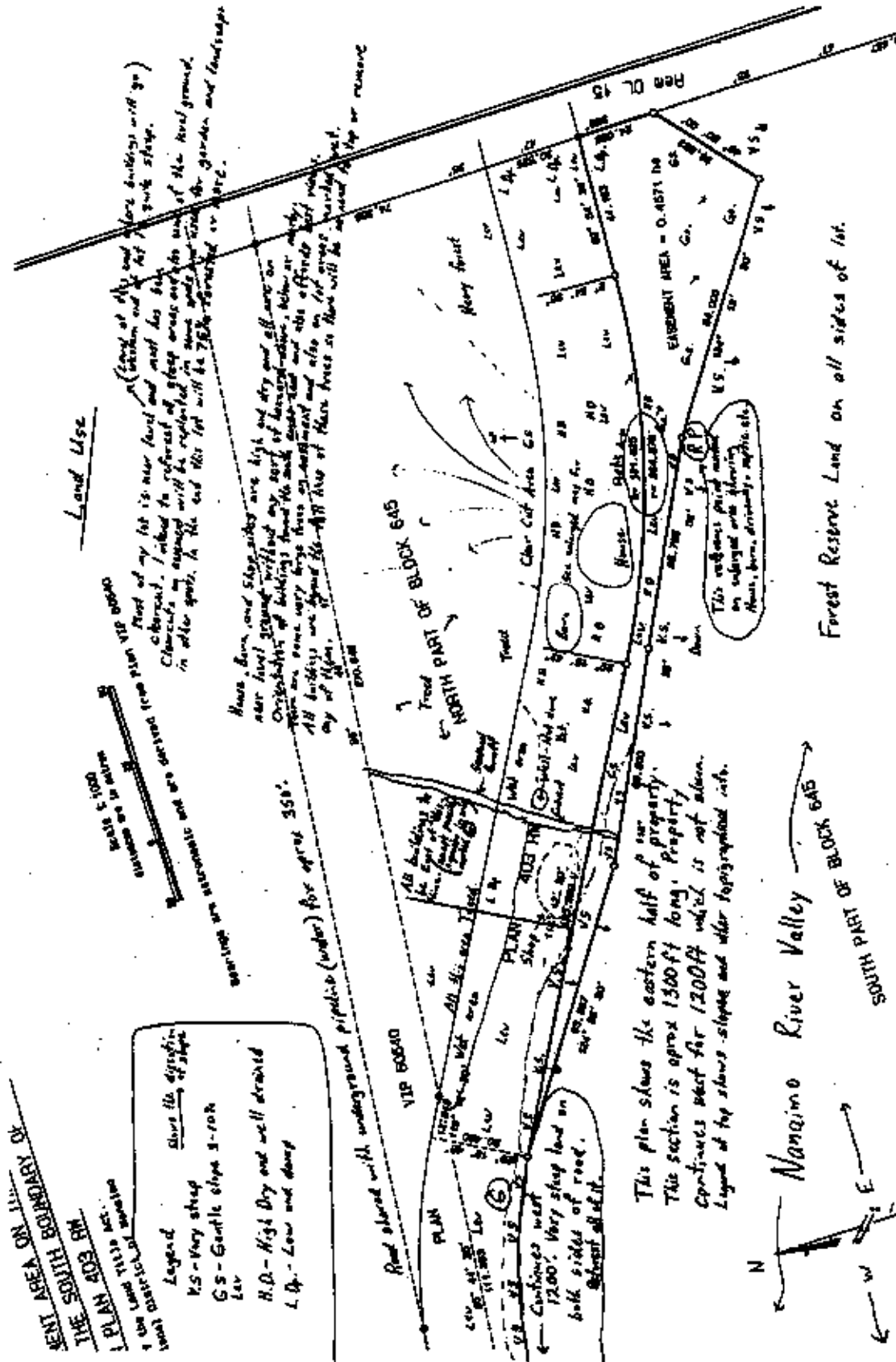
COMMENTS:

devsvs/reports/2002/dvp_fe_3090_30_0205_Sjoström_Donner.doc

Schedule No. 1
Conditions for Approval

1. Submission of a scaled site plan, certified by a BCLS, showing the location of all existing and proposed buildings and structures on the parcel.
2. Submission of an access permit as approved by the Ministry of Transportation.
3. Submission of a septic permit as approved by the Ministry of Health.

Schedule No. 2
Site Plan
(As Submitted by Applicant)



Land Use

House, Barn, and Slag-sites are high and dry and all were on near level ground with out any sort of lowered-water, below or above. Originality of buildings from the 1800s and 1900s and also effluent from them are some very large trees in some spots. The garden and landscape in other spots. In the end this lot will be 75% forested in aprx.

House, Barn, and Slag-sites are high and dry and all were on near level ground with out any sort of lowered-water, below or above. Originality of buildings from the 1800s and 1900s and also effluent from them are some very large trees in some spots. The garden and landscape in other spots. In the end this lot will be 75% forested in aprx.

All buildings were on the 1800-1900 level and also in lot were heavily forested. Any of them, if you take away the trees in them will be a good spot to dig or remove.

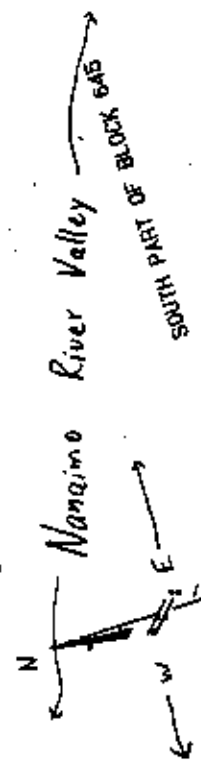
SENT AREA ON THE SOUTH BOUNDARY OF THE SOUTH BOUNDARY OF PLAN 403 RM

1 THE LAND THIS SECTION

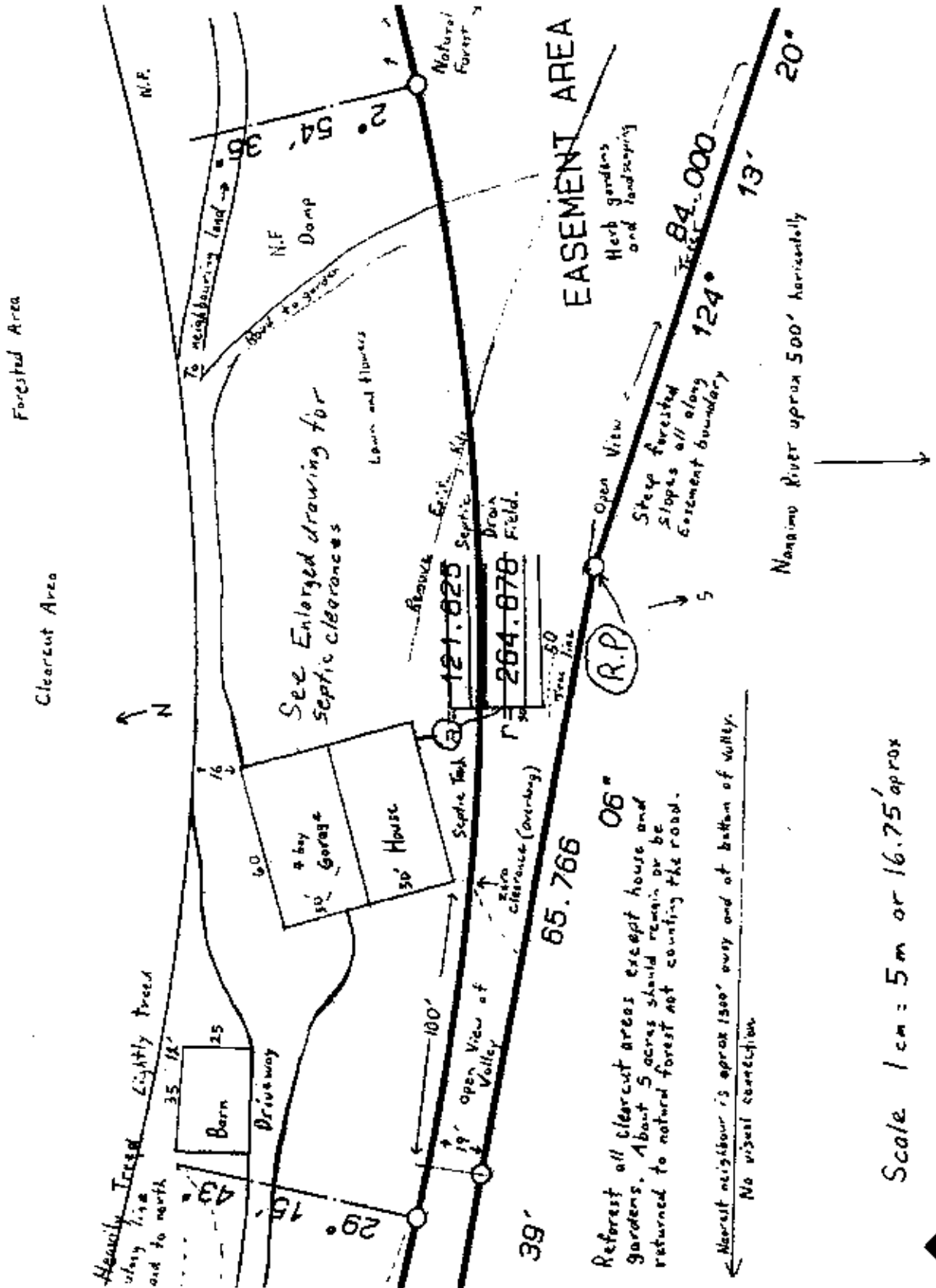
2 THE STATISTICAL SECTION

- Legend
- GS - Very steep
 - GS - Gentle slope 3-10%
 - LD - Low and damp
 - H.D. - High Dry and well drained
 - L.D. - Low and damp

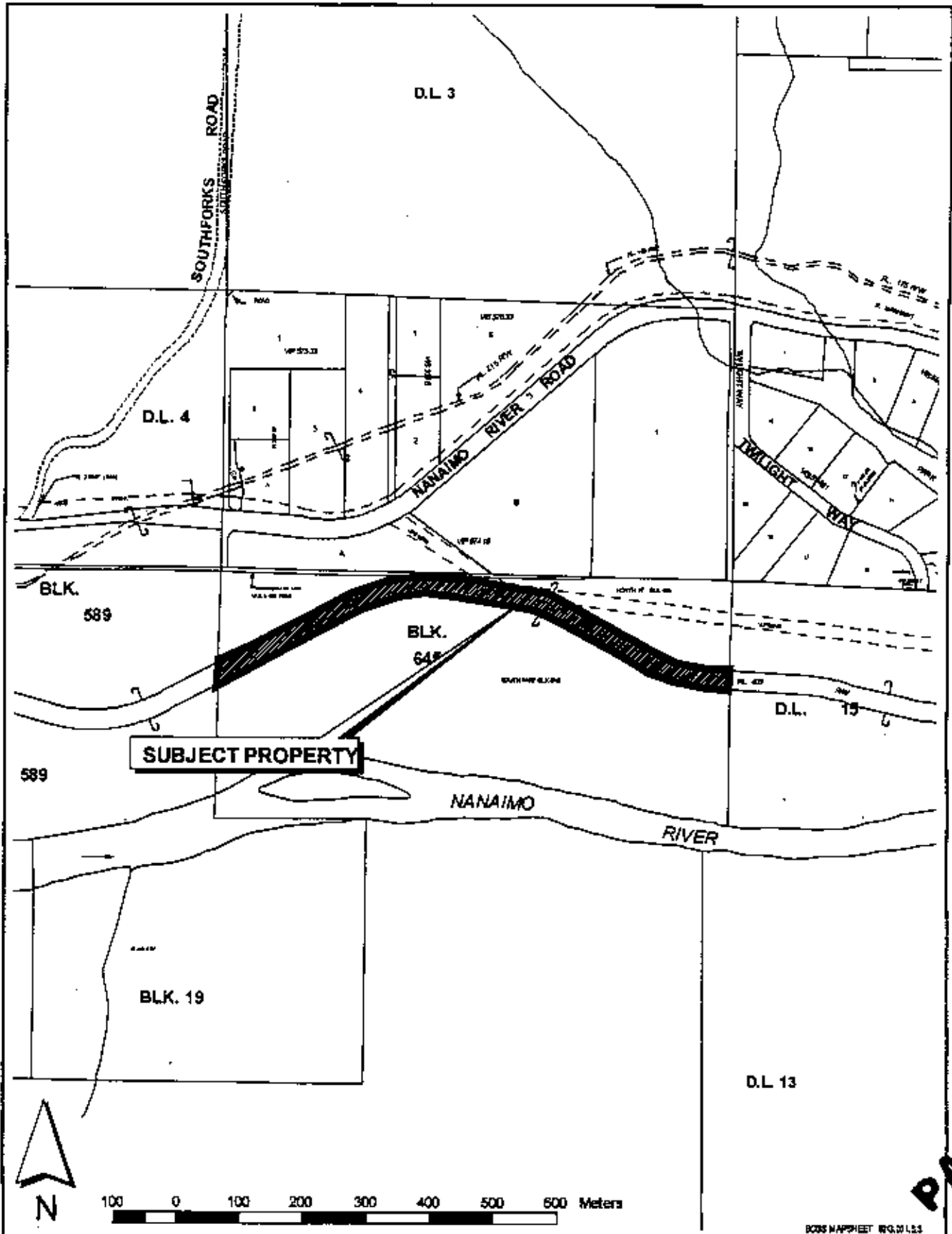
This plan shows the eastern half of property. This section is approx 1300ft long. Property continues west for 1200ft which is not shown. Legend of top slope slopes and other topographical info.



Schedule No. 3
Site Plan
(As Submitted by Applicant)



Attachment No. 1
Subject Property Map





REGIONAL DISTRICT
OF NANAIMO

FEB 15 2002

CHAIR		GMCrs	
CAO		GMDS	
GMCms		GMES	
<i>E.A. Planning</i>			
DATE:			

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

DATE: February 15, 2002

FROM: Lindsay Chase
Planner

FILE: 3090 30 0206

SUBJECT: Development Variance Permit Application No. 0206 - Dickens/Sims
Electoral Area 'E' - 3605 Collingwood Drive

PURPOSE

To consider an application for a Development Variance Permit to legalize the siting of existing rip rap retaining walls on a property in the Fairwinds area of Nanoose Bay.

BACKGROUND

This is an application to legalize the construction of a riprap retaining wall located on a residential property in Nanoose Bay (*see Attachment No. 1*). The subject property is located on Collingwood Drive. The dwelling unit is accessed via a steep driveway from Collingwood Drive.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The minimum setback requirements for buildings and structures in this zone are: 8.0 metres from the front lot line; 2.0 metres from the rear lot line; 2.0 metres from interior side lot lines; and 5.0 metres from other lot lines. Pursuant to Bylaw No. 500, a retaining wall that is greater than 1.0 metre in height must meet the applicable setbacks of the zone. The riprap walls that the applicant has constructed therefore require a variance, as they are greater than 1.0 metre in height and are located within the lot line setback areas. The applicant's surveyor has indicated that as the retaining walls are stone, the width and the shape of the walls varies, therefore, they are not easily dimensioned and are shown as an encompassing envelope.

The siting of the retaining walls is shown in *Attachment 2*. The retaining walls were constructed due to the topography of the lot, to enable the construction of a driveway in order to access the dwelling unit. The applicant is requesting that the front lot line setback be varied from 8.0 metres to 0.0 metres and that the interior side lot line be varied from 2.0 metres to 0.0 metres to legalize the siting of the retaining wall.

There is a restrictive covenant registered on the title of this property with respect to the rear lot line setback. The covenant is registered in favor of the Notch Hill Development Corporation and Fairwinds Development Corporation and requires a minimum rear lot line setback of 8.0 metres. The proposed variance is within the front and side yard setbacks and is not affected by the covenant at the rear.

ALTERNATIVES

1. To approve Development Variance Permit No. 0206.
2. To deny Development Variance Permit No. 0206.

LAND USE IMPLICATIONS

A building permit was issued for this property on April 23, 2001. With respect to the building permit, the plan check notes indicate that if retaining walls were constructed, that a building permit would be required and that if the walls were greater than 1.0 metre in height that setbacks would apply. On January 30, 2002 the Building Inspector noted that the building was occupied without an occupancy permit and that one of the deficiencies upon inspection was that retaining walls over 1.0 metre in height were constructed. The inspector noted that the walls required both a building permit application and a development variance permit application as the walls were within the lot line setback. The Building Inspection Department has indicated that the applicant will require a building permit for the retaining walls, and that approval by a geotechnical engineer is required as part of this application.

From staff's assessment of this application, the retaining walls are likely to have been necessary to facilitate access to the dwelling unit. Based on the topography of the lot, the restrictive covenant relating to the rear lot line, and the location of the dwelling unit, placement of the retaining walls adjacent to the property line was unavoidable. Given the elevation of the retaining wall and the downward slope of the lot the impact on adjacent properties is considered to be minimal.

VOTING

Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

This is an application for a development variance permit to legalize existing retaining walls constructed to facilitate access to a single dwelling unit. This application includes a request to vary the front lot line setback from 8.0 metres to 0.0 metres and a request to vary the interior side lot line setback from 2.0 metres to 0.0 metres. Staff recommends this application be approved subject to notification procedures pursuant to the *Local Government Act*.

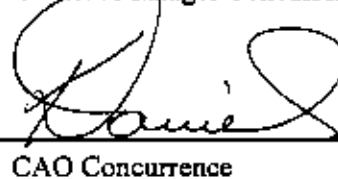
RECOMMENDATION

That Development Variance Permit No. 0206, submitted by Helen Sims, Agent on behalf of Harold Dickens and Nora Dickens, to legalize existing retaining walls constructed to facilitate access to the single dwelling unit by varying the minimum setback from an interior side lot line from 2.0 metres to 0.0 metres and the front lot line setback from 8.0 metres to 0.0 metres within the Residential 1 (RS1) zone for the property legally described as Lot 10, District Lot 9, Nanoose District, Plan 51142, be approved as submitted subject to notification requirements pursuant to the *Local Government Act*.


Report Writer


General Manager Concurrence

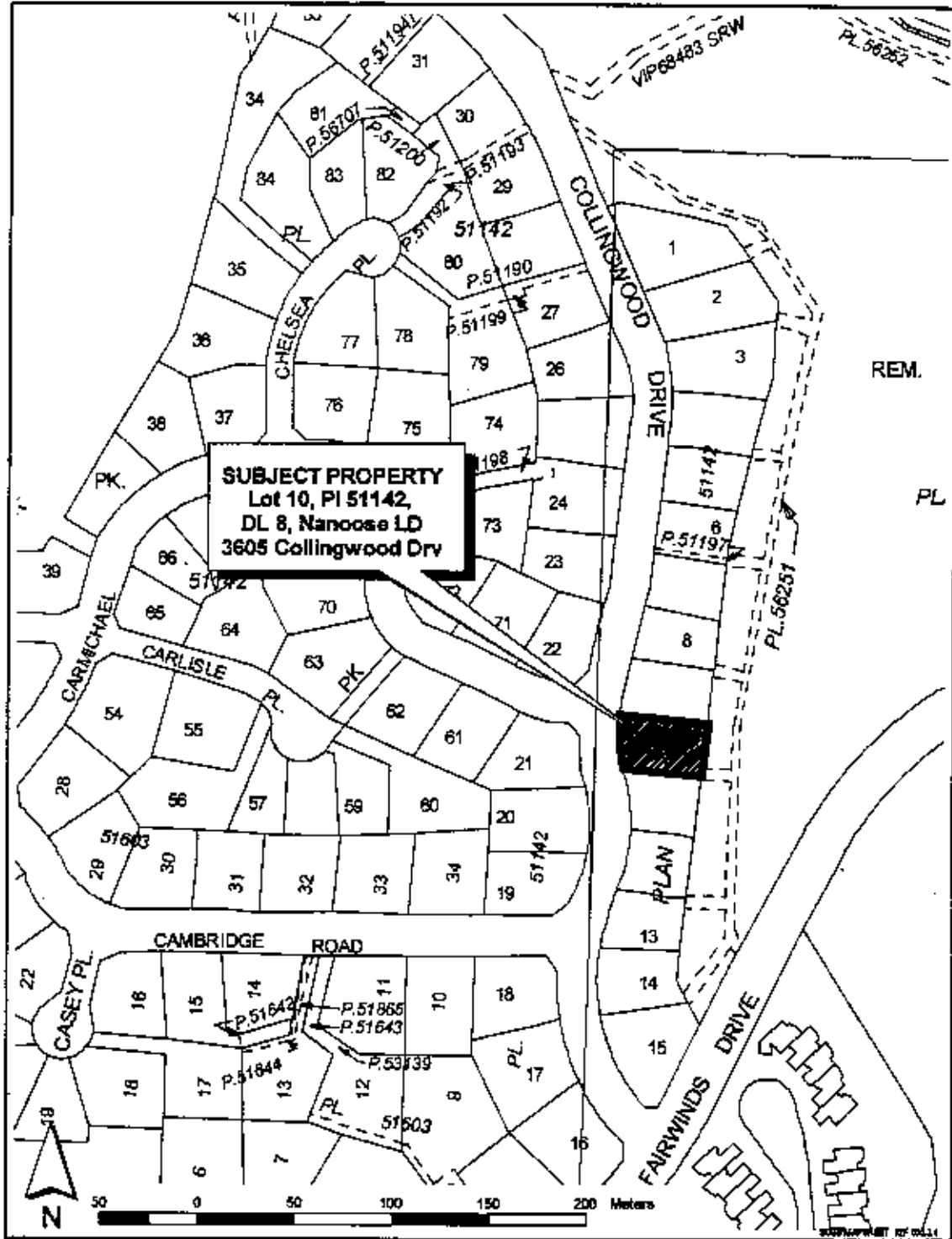

FOR Manager Concurrence


CAO Concurrence

COMMENTS:

devsva/reports/2002/dvp fe 3090 30 0206 Dickens Sims.doc

Attachment No. 1
Subject Property Location





REGIONAL DISTRICT OF NANAIMO			
FEB 18 2002			
CHAIR		GMCrs	
CAO		GMDS	
GMCrs		GMES	
<i>E.P. Planning</i>			
			DATE

MEMORANDUM

TO: Pamela Shaw
Manager, Community Planning

FROM: Lindsay Chase
Planner

SUBJECT: Development Variance Permit Application No. 0207 - Bailey
Electoral Area 'E' - Redden Road

DATE: February 15, 2002

FILE: 3090 30 0207

PURPOSE

To consider an application for a development variance permit to vary the maximum permitted height of a dwelling unit in order to facilitate renovations and additions to an existing single dwelling unit in the Fairwinds area of Nanoose Bay.

BACKGROUND

This is an application to consider varying the maximum permitted height of a dwelling unit for a single dwelling unit on a residential property in Nanoose Bay. The subject property is located on Redden Road. Access to the property is from both an extremely steep panhandle driveway off Redden Road, and also from an easement below the dwelling unit to Dolphin Drive on an adjacent parcel the applicant also owns.

The subject property is zoned Residential 1 (RS1) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987." The maximum permitted height of a dwelling unit in this zone is 8.0 metres. The applicant is requesting that the maximum permitted height of a dwelling unit be varied from 8.0 metres to 12.5 metres in order to facilitate expansion and renovation of the existing dwelling unit.

The applicants have indicated the exaggerated slope of the property is the cause of the request for a variance. From Redden Road to the house, the slope decreases approximately 15 metres. The grade of the existing driveway is in excess of 30%. The applicant also owns the adjacent parcel and is proposing to register an easement over this property in order to reconfigure the driveway in order to minimize the slope. The driveway would then access a proposed new garage at the second storey of the dwelling, and would also wrap around in order to continue accessing the existing garage at the first storey of the dwelling. The proposed easement will not impact the building site on the adjacent parcel.

The siting and dimensions of the proposed expansion are shown in *Attachments 2 & 3*.

ALTERNATIVES

1. To approve Development Variance Permit no. 0207 as submitted.
2. To deny Development Variance Permit 0207 as submitted.

PAGE 5a

LAND USE IMPLICATIONS

The subject property has several constraints that compel this application for a Development Variance Permit. The property is accessed from a panhandle via Redden Road, which has slopes in excess of 30%. The proposed easement on the adjacent parcel would allow for a more gradual entry to the dwelling, and would also benefit any future owner of the adjacent parcel, as the driveway would already be constructed.

In addition, the steep slope of the site makes it difficult to comply with the current height restrictions. The existing house is set low on the property and is not visible from the road. The dwelling unit on the adjacent property will be impacted minimally by the proposed variance as this dwelling is at a significantly higher elevation than the subject property. The applicant has consulted with this neighbor, who has provided a letter of support. The applicant has also provided staff with letters of support from other adjacent property owners.

The applicant is proposing to maintain the existing 8-year-old dwelling and build additions to three sides of the existing dwelling. In order to not compromise the essential character of the proposed additions, the applicant is requesting a height variance. The proposed new roofline will minimally impact adjacent properties, and is unlikely to be visible from Redden Road. The design of the proposed additions are in keeping with adjacent properties, and the applicant and adjacent property owners have indicated that they believe the additions will enhance the architectural beauty of the community.

The Board may recall that other recent development variance permit applications in the Fairwinds area have been met with opposition from adjacent property owners. In this case, it is staff's assessment that due to the physical constraints of the subject property, and the constraint of working with the existing structure, that the request for a 4.5 metre variance is not unreasonable.

The Electoral Area Planning Committee may also be aware that that the subject property has a Building Scheme registered on the title that may limit height. Staff would indicate that, as the Regional District is not party to any building schemes registered on title, it is not within the purview of the Regional District to enforce building schemes. The applicant has been made aware that the building scheme applies and staff suggested that the applicant contact Fairwinds with respect relaxation of the building scheme for this property.

VOTING


Electoral Area Directors - one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS


This is an application to consider a development variance permit to facilitate the construction of additions to an existing dwelling unit. The application includes a request to vary the maximum permitted dwelling unit height from 8.0 metres to 12.5 metres. The subject property has both physical and man-made constraints that necessitate this application. In addition, the applicant has indicated that adherence to the height requirements would adversely impact the architectural character of the proposed additions. The applicant has provided letters of support from adjacent property owners with respect to this application. Staff recommends that his application be approved subject to notification procedures pursuant to the *Local Government Act*.

RECOMMENDATION

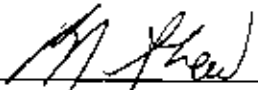
That Development Variance Permit No. 0207, submitted by Sandra Bailey and Warren Bailey, to facilitate the construction of additions to an existing dwelling unit by varying the maximum permitted height of a dwelling unit within the Residential 1 (RS1) zone from 8.0 metres to 12.5 metres from the property legally described as Lot 13, District Lot 78, Nanoose District, Plan VIP53134, be approved as submitted subject to notification requirements pursuant to the *Local Government Act*.



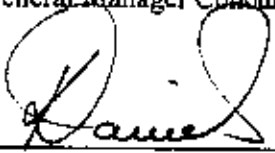
Report Writer



General Manager Concurrence



Manager Concurrence

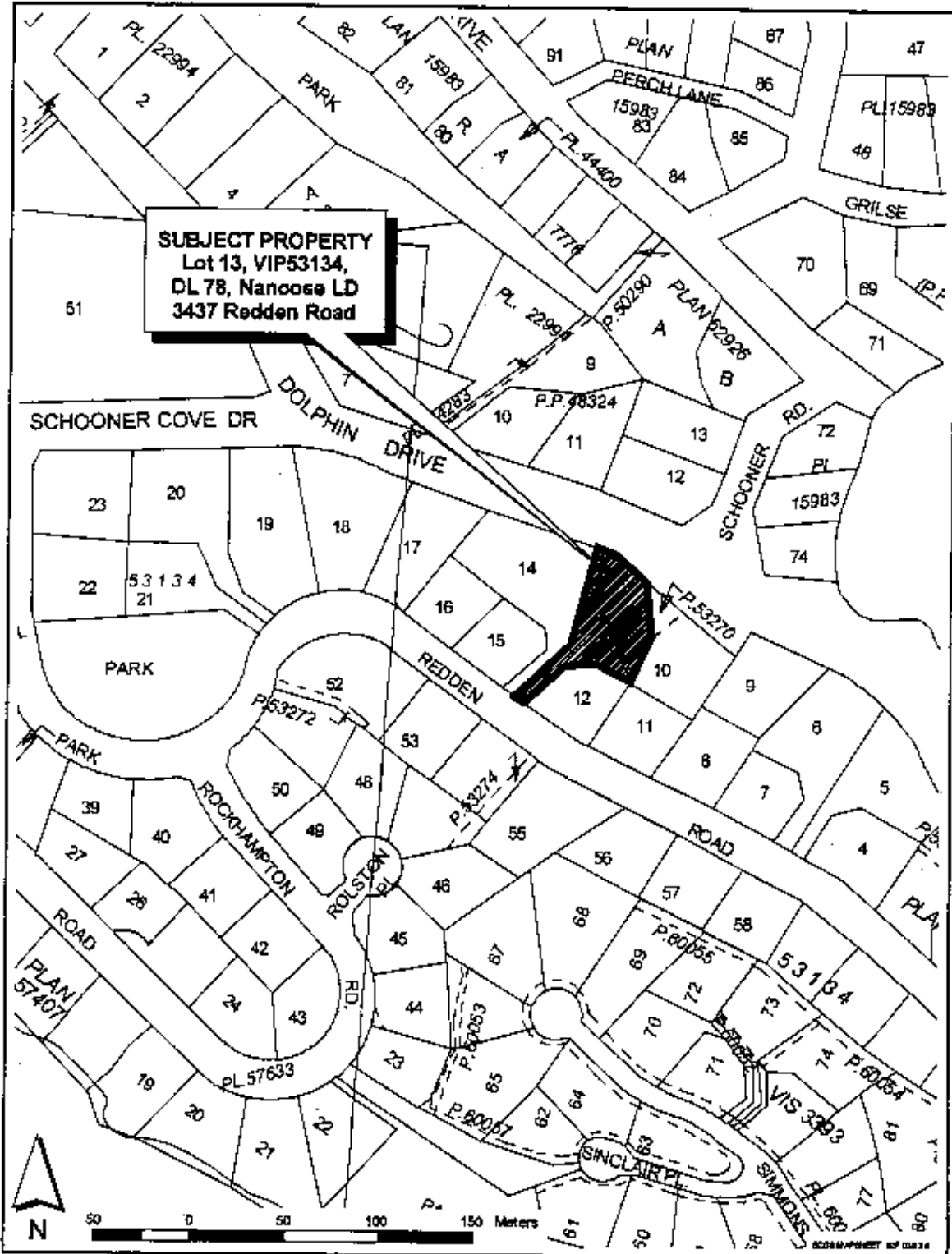


CAO Concurrence

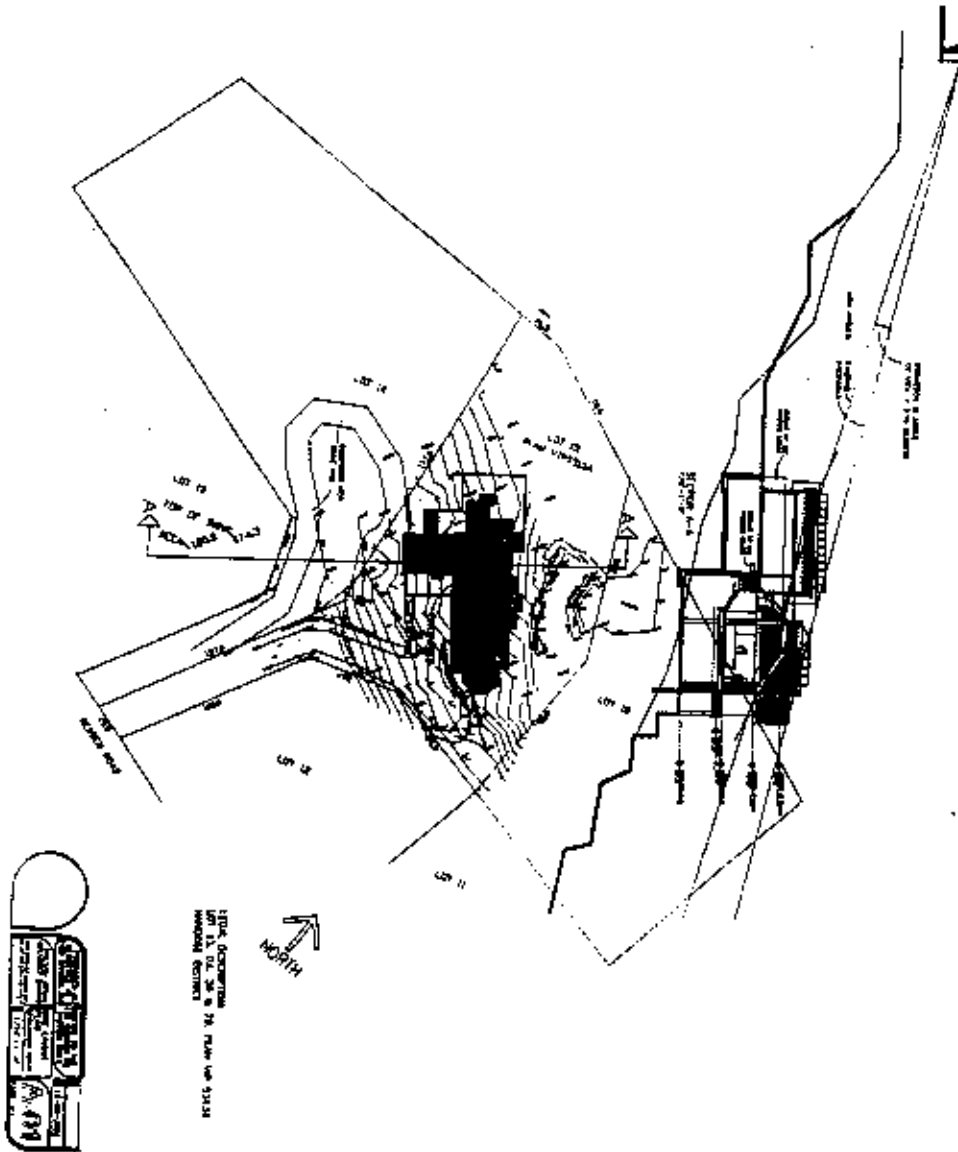
COMMENTS:

devsvs/reports/2002/dvp.fe.3060.30.0207.Bailey.Zitka.doc

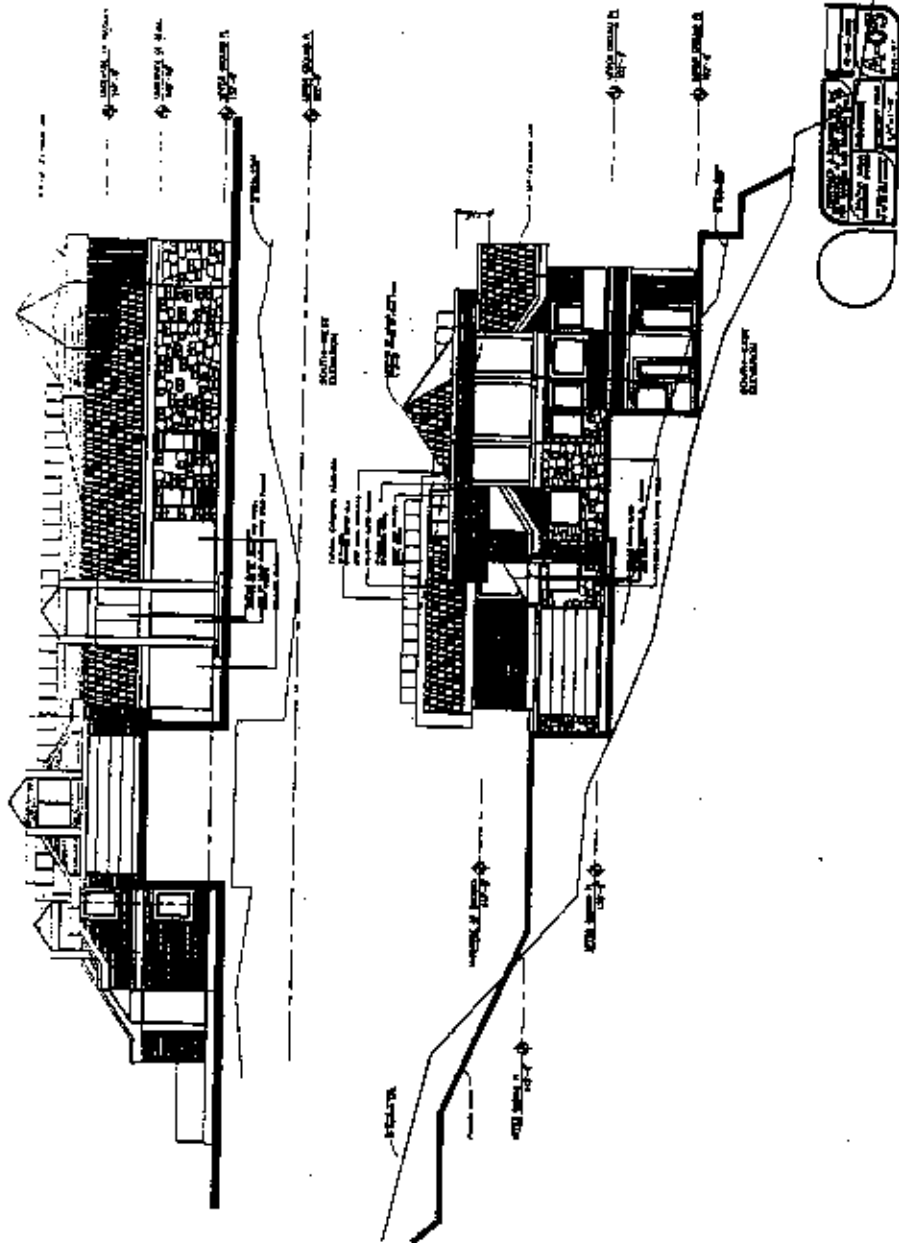
Attachment No. 1
Subject Property Location



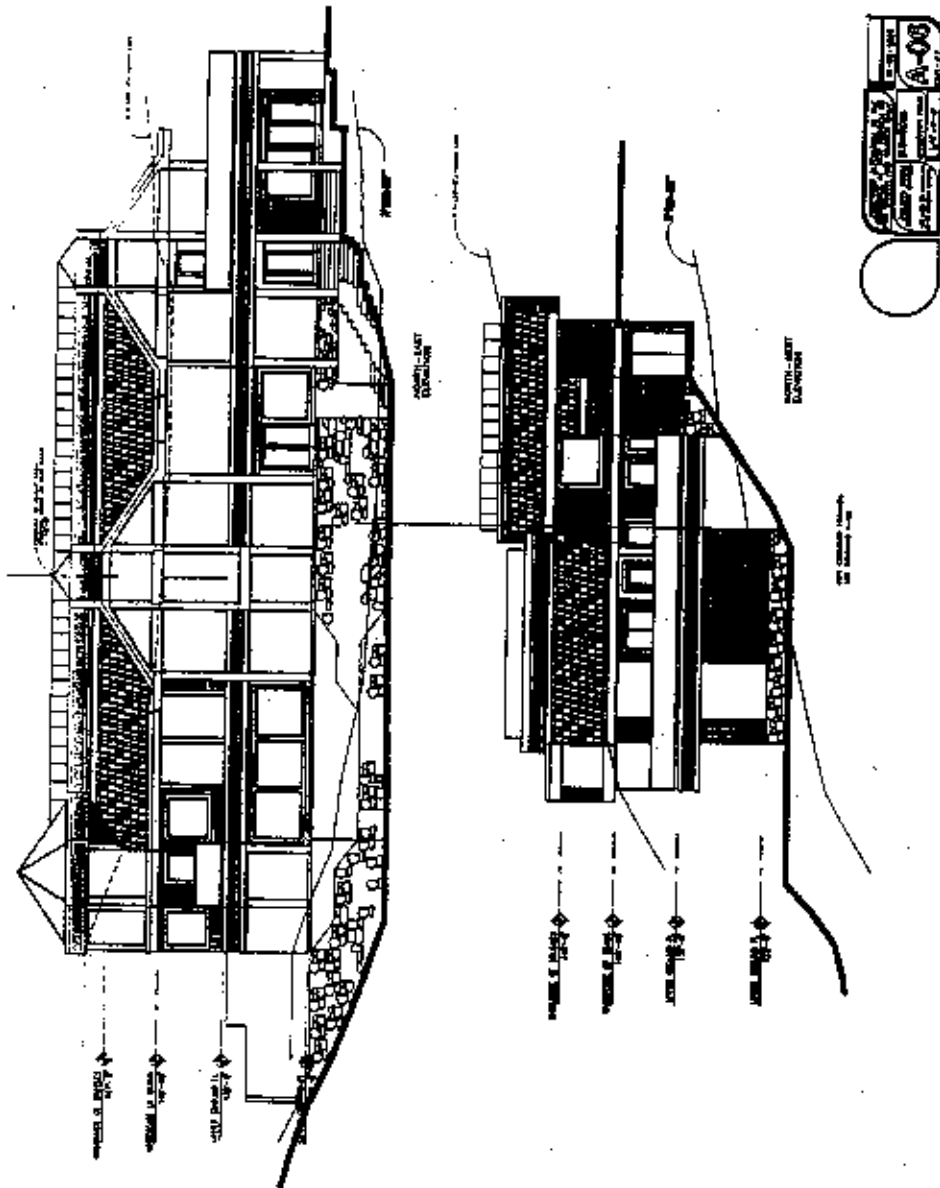
Attachment No. 2
Site Plan as Submitted by Applicant



Attachment No. 3
Elevations of Dwelling as Submitted by Applicant



Attachment No. 4
Elevations as Submitted by Applicant





REGIONAL DISTRICT OF NANAIMO		
FEB 15 2002		
CHAIR	GMCrS	
CAO	GMDS	
GMCmS	GMES	
<i>E.A. Planning</i>		
DATE:		

MEMORANDUM

TO: Pam Shaw
Manager, Community Planning

FROM: Brigid Reynolds
Planner

SUBJECT: Development Variance Permit Application No. 0208 - Zavislak/Slms
Electoral Area 'H' - 6297 West Island Highway

DATE: February 15, 2002

FILE: 3090 30 0208

PURPOSE

- To consider an application for a development variance permit to vary:
- the minimum setback requirement from 18.0 metres from the stream centerline of the back channel of Nash Creek to a minimum of 7.0 metres for a building envelope to locate a retaining device and dwelling unit;
 - from 18.0 metres from the stream centerline of the back channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the back channel of Nash Creek;
 - from 18.0 metres from the stream centerline of the main channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the main channel of Nash Creek.

BACKGROUND

The subject property legally described as Lot 10, District Lot 21, Newcastle District, Plan 11567 is located on 6297 West Island Highway in the Bowser area of Electoral Area 'H'. (see Attachment 1).

The subject property is zoned Residential 2 (RS2) pursuant to "Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987". The minimum setback requirements for buildings and structures on parcels with an average slope of 5% or less adjacent to or containing a watercourse is 18.0 metres from the stream centreline. The applicant is requesting to vary the setback from the stream centreline to 7.0 metres to provide a building envelope to locate a retaining device and dwelling unit; to 0 metres to provide a building envelope for a bridge crossing the back channel; and 0 metres to provide a building envelope for a bridge crossing Nash Creek.

This application is being made as a condition of the sale of the parcel. As a result, no building plans have been submitted for the dwelling unit, retaining device, and footbridges. The property is located in a non-building inspection area.

The building envelope for the dwelling unit and retaining device are proposed to be located a minimum of 7 metres from the centreline of the back channel. The retaining device is proposed to be constructed to a maximum height of 2.5 metres.

This parcel contains several physical site constraints. The parcel is adjacent to the Strait of Georgia. Nash Creek and a back channel flow through the parcel, bisecting it. (see Schedule No. 2, the site plan). These are both watercourses pursuant to Bylaw No. 500. In addition, the septic field must be located in front of the dwelling unit, adjacent to the Island Highway, in order to meet the required setbacks defined in the Health Act - Sewage Disposal Regulations.

To access the portion of the parcel adjacent to the foreshore, two footbridges will need to be constructed to cross the back channel and the main channel of Nash Creek. The Ministry of Sustainable Resource Management, Water Management Branch authorizes 'works in and about a stream', pursuant to the *Water Act*. Therefore, an application for the proposed bridge construction must be made to Water Management Branch prior to these works being undertaken. The *Water Act* requires that a bridge must be clear span.

Nash Creek, including the back channel, is a fish bearing stream containing Coho, Chum, resident Rainbow Trout and Cutthroat Trout, therefore works undertaken within the riparian area of the creek and back channel must not violate the *Fisheries Act*.

ALTERNATIVES

1. To approve the requested variance subject to the conditions outlined in Schedules No. 1, 2, and 3.
2. To deny the requested variance.

LAND USE AND DEVELOPMENT IMPLICATIONS

No building plans have been submitted as part of this application and the parcel is not within the Building Inspection Area. Therefore, as a condition of these variances the RDN will require that all construction be consistent with RDN bylaws and that completed building plans for the dwelling unit, retaining device over 1 metre in height, and the footbridges to be submitted prior to any construction taking place.

In the past, Nash Creek has experienced flash floods; therefore, the retaining device is intended to reduce the potential for flooding to impact the dwelling unit. The retaining device is proposed to have a maximum height of 2.5 metres; however, the retaining wall may be constructed at a lesser height. Schedule No. 3 outlines conditions for the construction of the retaining device.

Reducing the setbacks of 18 metres from the centerlines of the back channel and main channel of Nash Creek to 0 metres to permit the footbridges, provides access to the foreshore area on this parcel. The proposed variances provide building envelopes in which the bridges may be located. The exact locations and dimensions of the bridges have not yet been determined as this application is being made as a condition of sale of the parcel. The bridge construction requires a permit pursuant to the *Water Act*. In addition, the *Act* requires that a bridge must be clear span, which means it must span the channel from top of bank to top of bank with the bridge abutments to be located outside of the stream channel. Location and dimension details will be determined through the *Water Act* process. Schedule No.3 outlines conditions for the construction of the footbridges.

ENVIRONMENTAL IMPLICATIONS

Nash Creek and the back channel are fish habitat. Therefore, works adjacent to the watercourses must be undertaken with due diligence in order to avoid any violations under the *Fisheries Act*. Due diligence can be achieved by undertaking the works to be consistent with the Land Development Guidelines for the Protection of Aquatic Habitat published by Federal Fisheries and Oceans (DFO) and the Ministry of Environment, Lands and Parks. In addition, Schedule No. 3 outlines conditions of approval for the various works and includes specifics to reduce potential impacts to the watercourses.

VOTING

Electoral Area Directors – one vote, except Electoral Area 'B'.

SUMMARY/CONCLUSIONS

This is an application for a development variance permit to vary:

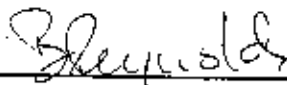
- the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 7.0 metres for a building envelope to locate a retaining device and dwelling unit;
- from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the back channel of Nash Creek;
- from 18.0 metres horizontal distance from the stream centerline of the main channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the main channel of Nash Creek.

This lot contains various site constraints. The parcel is adjacent to the Strait of Georgia, and Nash Creek and back channel flow through the parcel, bisecting it. No building plans have been submitted as part of this application as the variances are a condition of the sale of the parcel. The applicant must apply to the Ministry of Sustainable Resource Management, Water Management Branch prior to constructing the footbridges. Due to a back channel and main channel of a fish bearing stream bisecting the parcel all construction must be undertaken with due diligence to avoid any violations of the *Fisheries Act*.

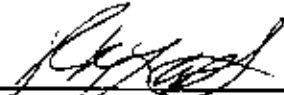
From staff's assessment of this application Development Variance Permit No. 0208 should be approved as the physical site constraints provide one alternative for the location of the dwelling unit. In addition, in order to access the whole parcel it is necessary to construct foot bridges to cross the back and main channel of Nash Creek. The conditions outlined in Schedules No. 3 shall reduce any negative impacts to Nash Creek.

RECOMMENDATION

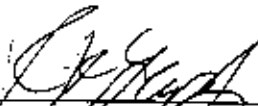
That Development Variance Permit Application No. 0208 to vary the minimum setback requirement from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 7.0 metres for a building envelope to locate a retaining device and dwelling unit; to vary the minimum setback distance from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the back channel of Nash Creek; and to vary the minimum setback from 18.0 metres horizontal distance from the stream centerline of the main channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the main channel of Nash Creek pursuant to the RDN's Land Use and Subdivision Bylaw No. 500, 1987 for the property legally described as Lot 10, District Lot 21, Newcastle District, Plan 1567 be approved subject to the requirements outlined in Schedules No. 1, 2, and 3.



Report Writer



General Manager Concurrence



For: Manager Concurrence



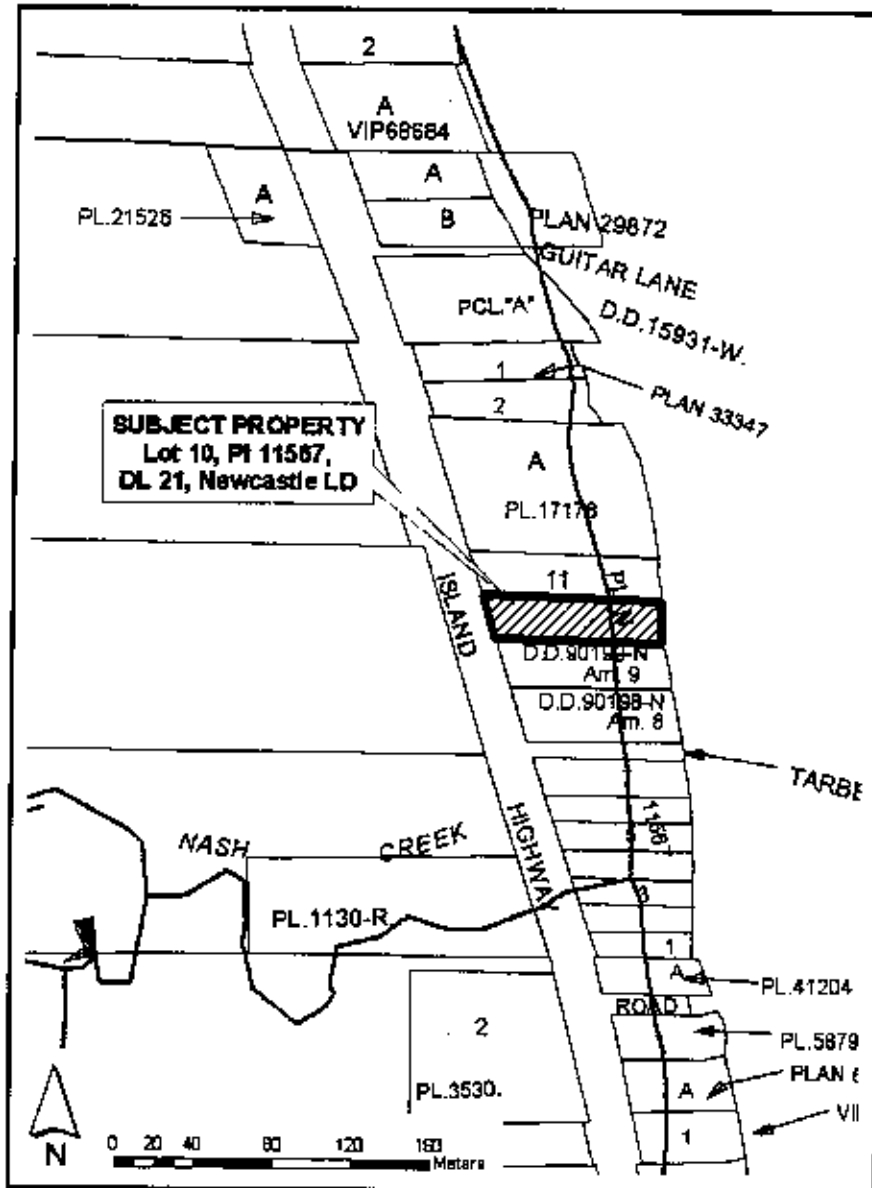
CAO Concurrence

COMMENTS:

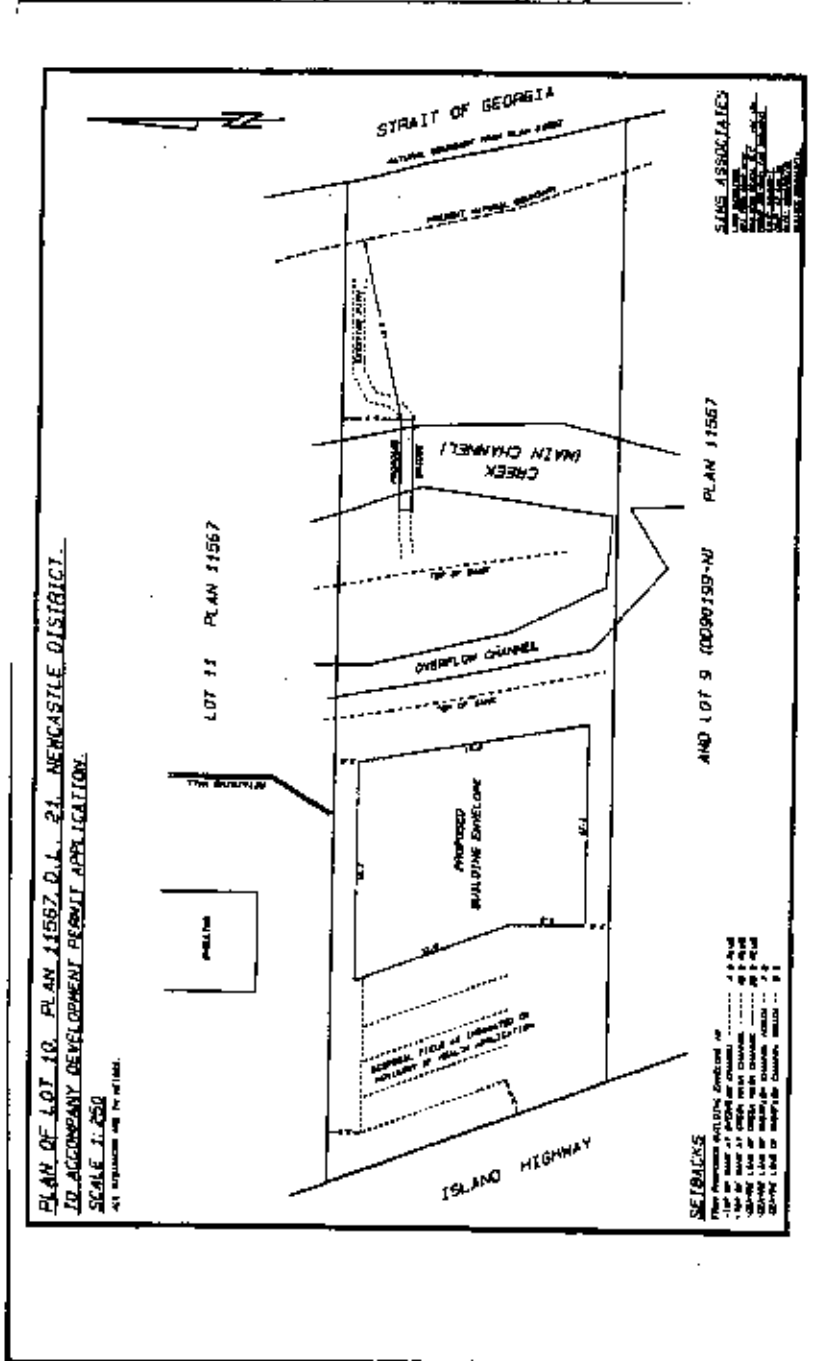
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Attachment No. 1
Subject Property
Development Variance Permit No. 0208
6297 West Island Highway



Schedule No. 1
Site Plan
Development Variance Permit No. 0208
6297 West Island Highway



Schedule No. 2
Requested Variances
Development Variance Permit No. 0208
6297 West Island Highway

With respect to the lands, the Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987, the following variances are proposed:

1. Section 6.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18 metres horizontal distance from the stream centerline of the back channel of Nash Creek to a minimum of 7.0 metres for a building envelope to locate a retaining device and dwelling unit;
2. Section 6.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18.0 metres horizontal distance from the stream centerline of the back channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the back channel of Nash Creek;
3. Section 6.3.8 Setbacks – Watercourse, excluding the Sea – varied from 18.0 metres horizontal distance from the stream centerline of the main channel of Nash Creek to 0 metres for the building envelope to locate a bridge crossing the main channel of Nash Creek.

Schedule No. 3
Conditions of Approval
Development Variance Permit No. 0208
6297 West Island Highway

General

1. All construction to be undertaken must be consistent with Regional District of Nanaimo Land Use and Subdivision Bylaw No. 500, 1987.
2. Buildings plans for the dwelling unit, retaining device over 1.0 metres in height and foot bridges must be submitted to the RDN prior to any construction.
3. Submit a copy of the permit to construct a septic disposal system.
4. All construction undertaken within the riparian area of the back channel and main channel of Nash Creek must be consistent with the *Land Development Guidelines for the Protection of Aquatic Habitat*.
5. Concrete poured on-site must be fully contained in forms. Concrete, concrete fines, concrete wash, concrete dust or other concrete materials are not permitted to enter any watercourse as these concrete materials are extremely toxic to fish and other freshwater organisms when uncured.

Retaining Device

6. The retaining device is to include a mechanism to drain soils from the upland without allowing for the loss of upland soils to the marine environment. A filter fabric barrier to restrain upland soils is recommended.
7. Where the retaining device exceeds 1.0 metre in height, it is to be constructed in accordance with engineering standards and certified by a professional engineer to the satisfaction of the RDN.

Foot Bridges

8. The foot bridges shall not exceed 1.5 metres in width.
9. Installation of the foot bridges must damage as little riparian vegetation as possible.
10. If it is necessary to ford across the stream this should be done in August or at the lowest flow possible. Fording is limited to one crossing and the impact reduced by putting down plywood sheeting or something similar when crossing to protect the stream substrate.
11. Any machinery must be in good working order and no fuels, lubricants or construction wastes are permitted to enter any watercourse. Machine work must be done from the upland, and is not permitted to occur within the stream. No refueling of machinery is to be conducted within 30 metres of the watercourses.
12. In the event of a spill, a spill kit should be on-site to prevent the introduction of any fuels. If a spill occurs, the Provincial Emergency Program must be contacted.
13. Submit a copy of the permit issued by Water Management Branch for construction of the foot bridges.